



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: FEBRUARY 18, 2004***

### **AGENDA ITEMS FOR JOINT COUNCIL AND PARKS AND RECREATION COMMISSION WORKSHOP**

**RECOMMENDED ACTION(S):** Approve the agenda and prepare to discuss the items during the workshop.

**Agenda Item # 1**

**Prepared By:**

**Recreation &  
Community Services  
Manager**

**Submitted By:**

**City Manager**

#### **EXECUTIVE SUMMARY:**

At the City Council meeting of December 10, 2003, the Parks and Recreation Commission requested to hold a joint workshop with Council as it was one of their adopted yearly goal to bridge and strengthen communications and yearly goal planning with the City Council.

The Council directed staff to schedule the meeting and have the agenda items presented by Mayor Kennedy and Parks and Recreation Chair Frederick. The items for discussion are:

1. RDA Funding Allocations and Council's priorities for implementing those priorities and timelines.
2. Function and roles of the committees (BTAC, YAC, SAC)
3. Recreation needs in Morgan Hill: i.e. lack of adequately maintained sports fields.
4. Partnership potentials with the school district for recreation uses.
5. Council's goals and vision for the Parks and Recreation programs for Morgan Hill and what they would like to have the Parks and Recreation Commission work towards over the next year.

**FISCAL IMPACT:** This item is covered under the current budget allocation.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **JANUARY 2004 FINANCE & INVESTMENT REPORT**

#### **RECOMMENDED ACTION:**

Accept and File Report

#### **EXECUTIVE SUMMARY:**

Attached is the monthly Finance and Investment Report for the period ended January 31, 2004. The report covers the first seven months of activity for the 2003/2004 fiscal year. A summary of the report is included on the first page for the City Council's benefit.

The monthly Finance and Investment Report is presented to the City Council and our Citizens as part of our ongoing commitment to improve and maintain public trust through communication of our finances, budget and investments. The report also serves to provide the information necessary to determine the adequacy/stability of financial projections and develop equitable resource/revenue allocation procedures.

This report covers all fiscal activity in the City, including the Redevelopment Agency. The Redevelopment Agency receives a separate report for the fiscal activity of the Agency at the meeting of the Agency. Presenting this report is consistent with the goal of *Maintaining and Enhancing the Financial Viability of the City*.

**FISCAL IMPACT:** as presented

**Agenda Item # 2**

**Prepared By:**

\_\_\_\_\_  
**Finance Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

**CITY OF MORGAN HILL**  
**Monthly Financial and Investment Reports**  
**January 31, 2004 – 58% Year Complete**



**CITY OF MORGAN HILL**

**Prepared by:**  
**FINANCE DEPARTMENT**



CITY OF MORGAN HILL, CALIFORNIA  
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04  
FOR THE MONTH OF JANUARY 2004 - 58% OF YEAR COMPLETE

This analysis of the status of the City's financial situation reflects 58% of the year.

- \* **General Fund** - The revenues received in the General Fund were approximately 53% of the budgeted revenues. Property related taxes received by the City amounted to 73% of the budget. The amount of Sales Tax collected was 52% of the sales tax revenue budget and was 11% less than the amount collected for the same period last year. Business license and other permit collections were 85% of the budgeted amount, a 1% decrease over the same period last year. Business license renewal fees are due in July; therefore the higher percent of budget collected early in the year is normal. Motor Vehicle-in-Lieu revenues were only \$703,156, or 34% of the budgeted amount, which was 40% less than the amount received at this time last year. This drop in Motor Vehicle-in-Lieu fees was caused by the State's elimination of the "State backfill" for these fees for at least a three month period, resulting in much lower fees received by the City. A somewhat higher level of Motor Vehicle-in-Lieu fees should be received by the City over the rest of the fiscal year, as evidenced by the City's receipt of \$242,290 in January. As of this date, the State's fiscal crisis continues to make this process complicated and problematic. Interest & Other Revenue were 50% of budget and reflect interest earnings only through December, since earnings for the quarter ending March will be posted following the end of the third quarter in April. Certain current year revenues have not yet been received this early in the year. Most gas & electric franchise fees and cable TV franchise fees will not be received by the City until later in the year.
- \* The General Fund expenditures and encumbrances to date totaled 55% of the budgeted appropriations. The outstanding encumbrances in several activities are encumbrances for projects started but not completed in the prior year and carried forward to the current fiscal year.
- \* **Transient Occupancy (Hotel) Tax** - The TOT rate is 10%. The City receives transient occupancy taxes on a quarterly basis. Taxes for the first two quarters of the current year amounted to \$437,952, or 49% of budget, which was 7% less than the prior year. However, not all taxes were paid on time by the delinquent date of January 31.
- \* **Community Development** - Revenues were 74% of budget, which was 15% more than the amount collected in the like period for the prior year. Planning expenditures plus encumbrances were 71% of budget; Building has expended or encumbered 51% of budget and Engineering 59%. Community Development has expended or encumbered a combined total of 61% of the 2003/04 budget, including \$339,446 in encumbrances. If encumbrances were excluded, Community Development would have spent only 51% of the combined budget.
- \* **RDA and Housing** - Property tax increment revenues amounting to \$10,978,074 have been received as of January 31, 2004. Expenditures plus encumbrances totaled 64% of budget. If encumbrances totaling \$8,541,288 were excluded, the RDA would have spent only 46% of the combined budget. In July, the RDA spent \$3.4 million toward the Courthouse Project acquisition. In August, the Agency made a \$2.55 million installment payment toward the purchase of the Sports Fields Complex property. Through January, the Agency incurred \$4.6 million in acquisition and construction costs related to the Butterfield Blvd Phase IV Project and incurred \$4.6 million in costs associated with the construction of the Aquatics Complex. In July, the Agency also made a \$3 million loan to South County Housing for the Royal Court Housing Project.



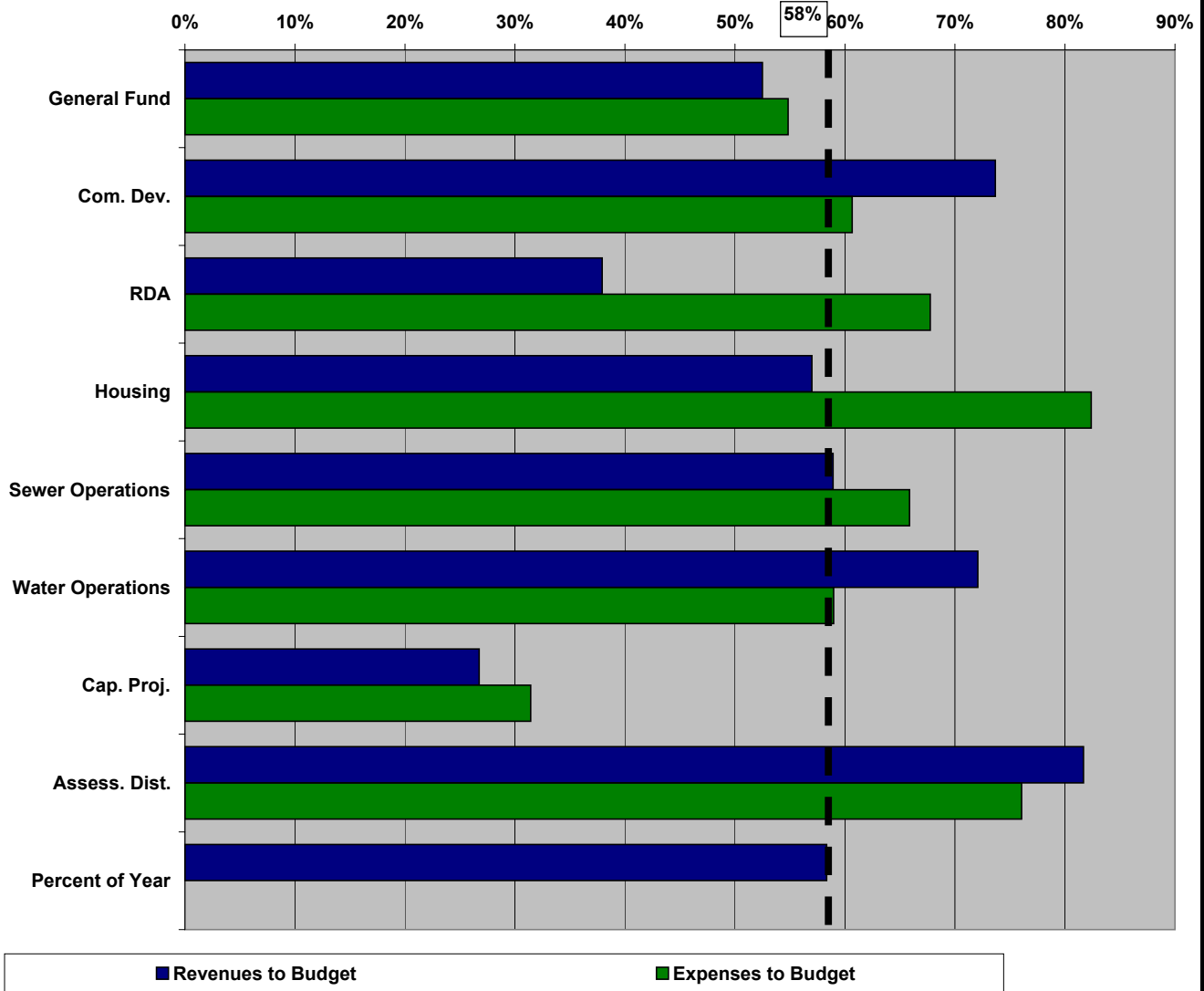
CITY OF MORGAN HILL, CALIFORNIA  
FINANCIAL STATEMENT ANALYSIS - FISCAL YEAR 2003/04  
FOR THE MONTH OF JANUARY 2004 - 58% OF YEAR COMPLETE

- \* **Water and Sewer Operations-** Water Operations revenues, including service fees, were 72% of budget. Expenditures totaled 59% of appropriations. The higher level of water operations expenditures was primarily associated with the timing of perchlorate related expenditures. Sewer Operations revenues, including service fees, were 59% of budget. Expenditures for sewer operations were 66% of budget. The amount spent to date for sewer operations was high because it included a scheduled \$1.4 million August debt service payment on outstanding sewer bonds.
- \* **Investments maturing/called/sold during this period.** - During the month of January, \$6 million of the City's Federal agency investments was called. Further details of all City investments are contained on pages 6-8 of this report.



# Morgan Hill YTD Revenue & Expense Summary

January 31, 2004 – 58% Year Complete



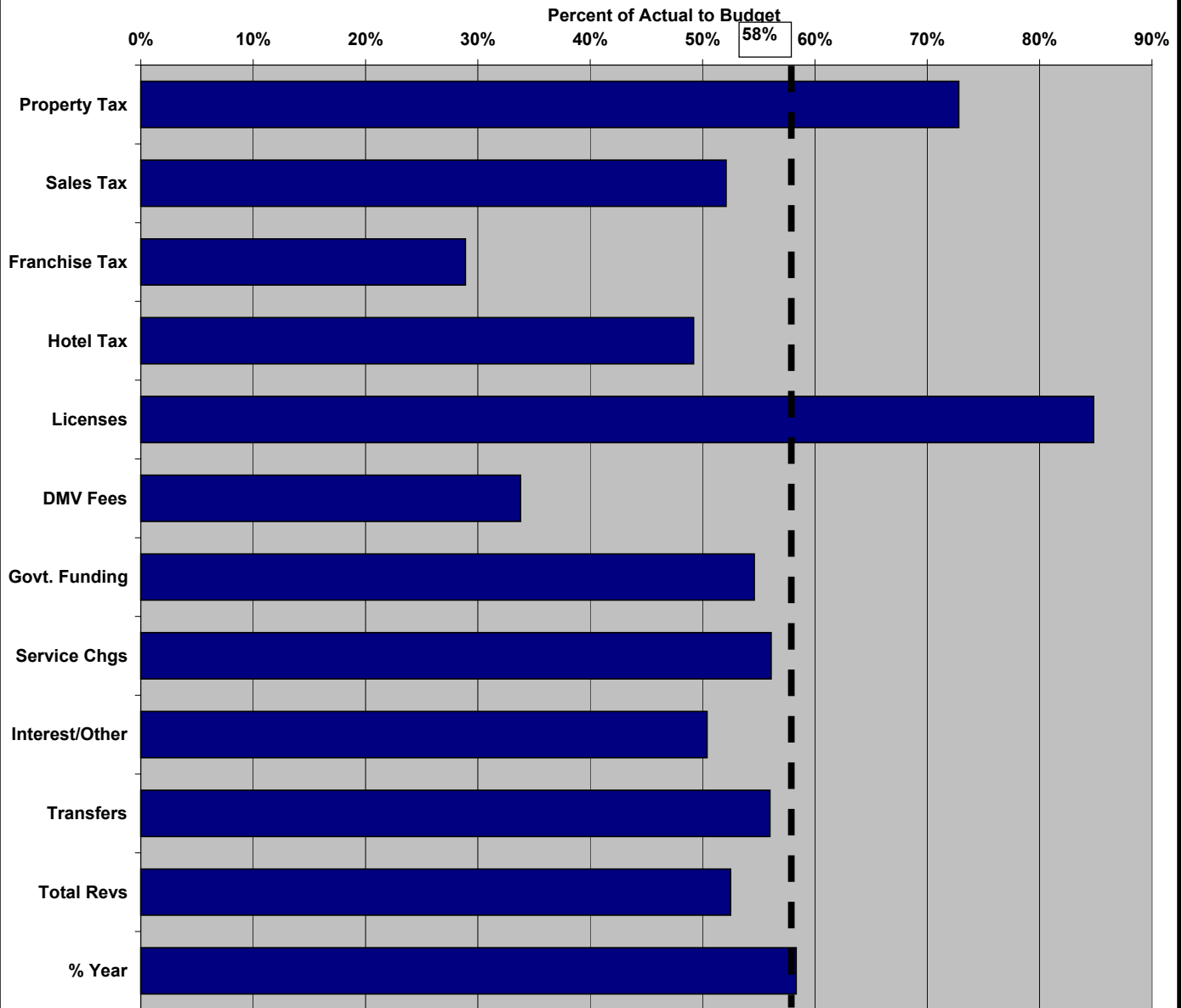
FUND NAME	% OF BUDGET		% OF BUDGET		1/31/2004 UNRESTRICTED FUND BALANCE
	ACTUAL	% OF BUDGET	ACTUAL plus ENCUMBRANCES	% OF BUDGET	
General Fund	\$8,438,817	53%	\$9,094,578	55%	\$10,480,744
Community Development	1,677,064	74%	1,956,415	61%	1,272,379
RDA	8,926,175	38%	27,077,819	68%	437,775
Housing/CDBG	2,275,889	57%	4,126,733	82%	4,592,615
Sewer Operations	3,232,607	59%	4,948,962	66%	3,362,746
Sewer Other	1,747,388	141%	1,177,456	22%	11,918,367
Water Operations	5,098,532	72%	4,636,375	59%	3,041,387
Water Other	1,358,699	125%	3,063,882	42%	2,904,843
Other Special Revenues <sup>1</sup>	490,887	64%	953,116	37%	2,585,051
Capital Projects & Streets Funds	3,588,623	27%	7,210,573	31%	21,436,119
Debt Service Funds	128,767	82%	179,764	76%	457,382
Internal Service	2,109,742	52%	2,252,947	56%	4,448,781
Agency	1,348,787	50%	2,219,808	85%	4,329,697
<b>TOTAL FOR ALL FUNDS</b>	<b>\$40,421,977</b>	<b>49%</b>	<b>\$68,898,428</b>	<b>54%</b>	<b>\$71,267,886</b>

<sup>1</sup> Includes all Special Revenue Funds except Community Development, CDBG, and Street Funds



# Morgan Hill YTD General Fund Revenues

January 31, 2004 – 58% Year Complete

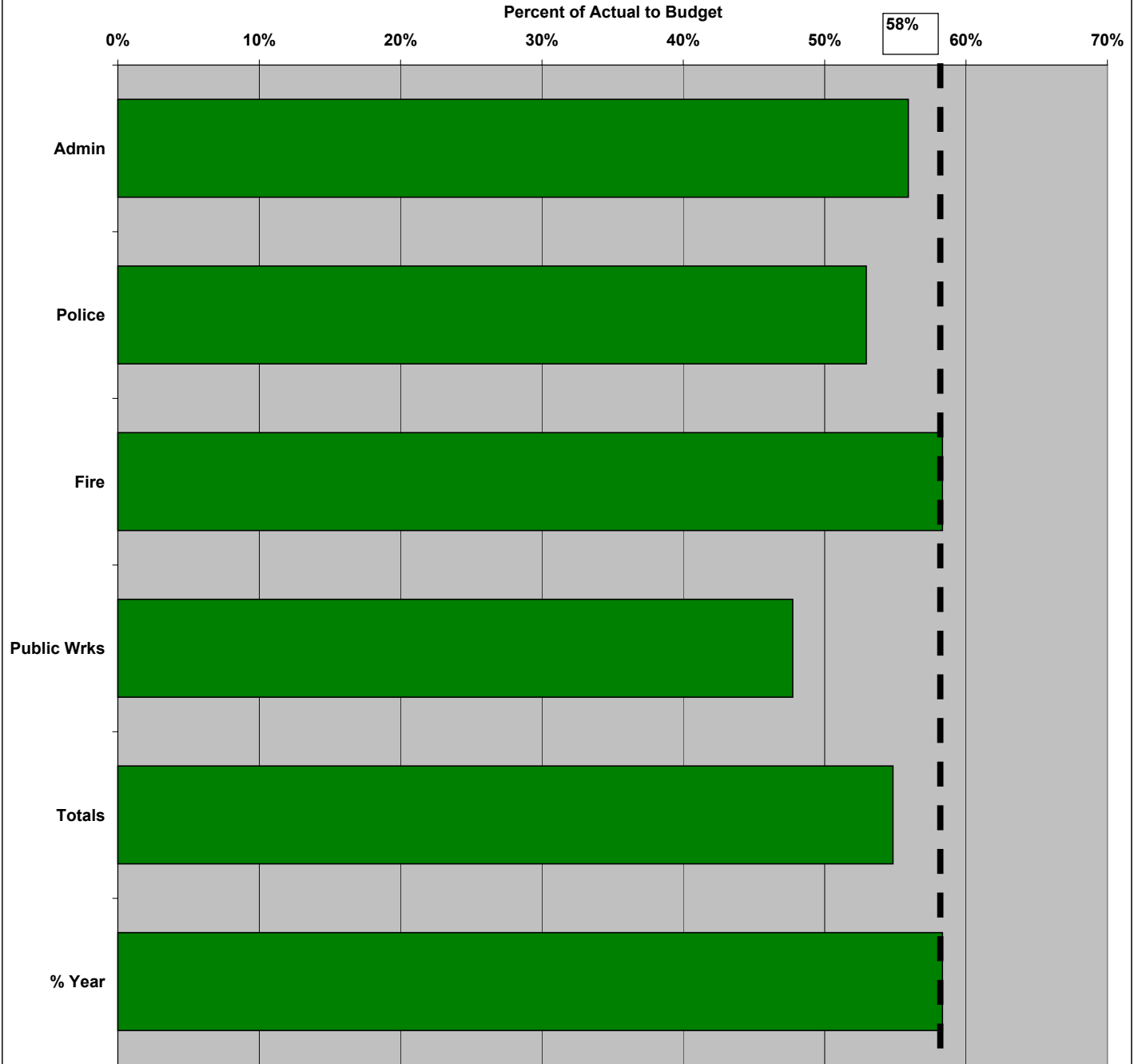


REVENUE CATEGORY	BUDGET	ACTUAL	% OF BUDGET	PRIOR YEAR TO DATE	% CHANGE FROM PRIOR YEAR
PROPERTY RELATED TAXES	\$2,440,000	\$1,775,239	73%	\$1,569,718	13%
SALES TAXES	\$4,923,000	\$2,562,716	52%	\$2,893,653	-11%
FRANCHISE FEE	\$961,180	\$277,386	29%	\$250,688	11%
HOTEL TAX	\$890,000	\$437,952	49%	\$469,711	-7%
LICENSES/PERMITS	\$202,600	\$171,723	85%	\$173,733	-1%
MOTOR VEHICLE IN LIEU	\$2,080,000	\$703,158	34%	\$1,169,751	-40%
FUNDING - OTHER GOVERNMENTS	\$271,900	\$148,325	55%	\$60,346	146%
CHARGES CURRENT SERVICES	\$2,588,137	\$1,450,944	56%	\$1,288,721	13%
INTEREST & OTHER REVENUE	\$893,050	\$449,707	50%	\$349,243	29%
TRANSFERS IN	\$823,986	\$461,667	56%	\$191,648	141%
TOTALS	\$16,073,853	\$8,438,817	53%	\$8,417,212	



# Morgan Hill YTD General Fund Expenditures

January 31, 2004 – 58% Year Complete



Expenditure Category	Budget	Actual Plus Encumbrances	% of Budget
ADMINISTRATION	5,205,392	2,910,868	56%
POLICE	6,812,300	3,606,289	53%
FIRE	3,745,220	2,184,570	58%
PUBLIC WORKS	822,840	392,851	48%
TOTALS	\$ 16,586,586	\$ 9,094,578	55%





**City of Morgan Hill**  
**Fund Activity Summary - Fiscal Year 2003/04**  
**For the Month of January 31, 2004**  
**58% of Year Completed**

Fund No.	Fund	Fund Balance 06-30-03	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
010	GENERAL FUND	\$11,136,505	\$8,438,817	53%	\$8,712,713	53%	(\$273,896)	\$381,865	\$10,480,744	\$10,871,311	\$4,150
<b>TOTAL GENERAL FUND</b>		<b>\$11,136,505</b>	<b>\$8,438,817</b>	<b>53%</b>	<b>\$8,712,713</b>	<b>53%</b>	<b>(\$273,896)</b>	<b>\$381,865</b>	<b>\$10,480,744</b>	<b>\$10,871,311</b>	<b>\$4,150</b>
202	STREET MAINTENANCE	\$1,683,131	\$913,191	67%	\$1,240,228	43%	(\$327,037)	\$869,921	\$486,173	\$1,163,104	
204/205	PUBLIC SAFETY/SUPPL. LAW	\$485,350	\$104,295	94%	\$159,590	58%	(\$55,295)		\$430,055	\$430,057	
206	COMMUNITY DEVELOPMENT	\$1,551,730	\$1,677,064	74%	\$1,616,969	50%	\$60,095	\$339,446	\$1,272,379	\$1,648,564	
207	GENERAL PLAN UPDATE	\$190,845	\$60,193	79%	\$46,219	23%	\$13,974	\$93,405	\$111,414	\$204,907	
210	COMMUNITY CENTER	\$360,157	\$2,751	44%	\$182,000	58%	(\$179,249)		\$180,908	\$180,908	
215 / 216	CDBG	\$636,136	\$6,580	4%	\$87,960	19%	(\$81,380)	551,306	\$3,450	\$155,154	
220	MUSEUM RENTAL	\$1,274	\$8	20%	\$1,131	47%	(\$1,123)		\$151	\$150	
225	ASSET SEIZURE	\$38,096	\$359	62%		n/a	\$359		\$38,455	\$38,455	
226	OES/FEMA										
229	LIGHTING AND LANDSCAPE	\$33,766	\$68,917	54%	\$76,738	46%	(\$7,821)	\$3,967	\$21,978	\$26,234	
232	ENVIRONMENT PROGRAMS	\$613,697	\$203,671	53%	\$216,885	43%	(\$13,214)	\$73,791	\$526,692	\$603,019	
234	MOBILE HOME PK RENT STAB.	\$9,808	\$5,044	80%	\$39,963	101%	(\$34,919)	\$22,705	(\$47,816)	(\$25,110)	
235	SENIOR HOUSING	\$255,610	\$2,407	35%	\$2,150	15%	\$257		\$255,867	\$255,867	
236	HOUSING MITIGATION	\$1,043,306	\$24,857	89%	3,675	0%	\$21,182	11,325	\$1,053,163	\$1,064,488	
240	EMPLOYEE ASSISTANCE	\$8,921	\$18,385	91%	13,122	66%	\$5,263		\$14,184	\$11,574	
<b>TOTAL SPECIAL REVENUE FUNDS</b>		<b>\$6,911,827</b>	<b>\$3,087,722</b>	<b>68%</b>	<b>\$3,686,630</b>	<b>40%</b>	<b>(\$598,908)</b>	<b>\$1,965,866</b>	<b>\$4,347,053</b>	<b>\$5,757,371</b>	
301	PARK DEV. IMPACT FUND	\$3,191,630	\$521,407	120%	\$185,239	9%	\$336,168	\$69,277	\$3,458,521		\$3,527,798
302	PARK MAINTENANCE	\$2,909,243	\$119,915	46%	\$100,000	50%	\$19,915		\$2,929,158	\$2,929,158	
303	LOCAL DRAINAGE	\$2,910,954	\$110,938	38%	\$8,844	0%	\$102,094		\$3,013,048		\$3,013,048
304	LOCAL DRAINAGE/NON-AB1600	\$3,276,514	\$90,115	57%	\$18,590	8%	\$71,525	\$71,621	\$3,276,418	\$3,228,040	
305	OFF-STREET PARKING	\$4,020	\$38	40%			\$38		\$4,058	\$4,058	
306	OPEN SPACE	\$458,488	\$107,129	187%			\$107,129	\$10,000	\$555,617	\$565,617	
309	TRAFFIC IMPACT FUND	\$2,826,115	\$960,019	145%	\$353,815	21%	\$606,204	\$510,931	\$2,921,388		\$3,418,259
311	POLICE IMPACT FUND	\$1,183,045	\$49,115	95%	\$22,810	2%	\$26,305	\$10,000	\$1,199,350		\$1,209,350
313	FIRE IMPACT FUND	\$2,603,859	\$145,889	99%	\$518,766	94%	(\$372,877)	\$9,101	\$2,221,881		\$2,230,981
317	REDEVELOPMENT AGENCY	\$20,860,548	\$8,926,175	38%	\$18,616,004	47%	(\$9,689,829)	10,732,944	\$437,775	\$8,916,570	
327 / 328	HOUSING	\$24,240,428	\$2,269,309	59%	\$3,856,589	45%	(\$1,587,280)	18,063,983	\$4,589,165	\$4,674,187	
340	MORGAN HILL BUS.RANCH I	\$48,290	\$455	40%			\$455		\$48,745	\$48,745	
342	MORGAN HILL BUS.RANCH II	\$54,233	511	n/a			\$511		\$54,744	\$54,744	
346	PUBLIC FACILITIES NON-AB1600	\$1,332,714	\$40,692	0%	390,203		(\$349,511)	\$1,734,941	(\$751,738)	\$983,203	
347	PUBLIC FACILITIES IMPACT FUND	\$665,032	\$447,412	954%	\$134,917	8%	\$312,495	586,901	\$390,626		\$940,857
348	LIBRARY IMPACT FUND	\$414,456	\$43,807	142%	\$131	58%	\$43,676		\$458,132		\$458,132
350	UNDERGROUNDING	\$1,257,217	37,681	120%	\$255	0%	\$37,426	124,954	\$1,169,689	\$1,294,643	
360	COMM/REC CTR IMPACT FUND		309	120%		0%	\$309		\$309	\$309	
<b>TOTAL CAPITAL PROJECT FUNDS</b>		<b>\$68,236,786</b>	<b>\$13,870,916</b>	<b>35%</b>	<b>\$24,206,163</b>	<b>35%</b>	<b>(\$10,335,247)</b>	<b>\$31,924,653</b>	<b>\$25,976,886</b>	<b>\$22,699,274</b>	<b>\$14,798,425</b>
527	HIDDEN CREEK			n/a							
533	DUNNE/CONDIT			n/a							
536	ENCINO HILLS	\$68,027	\$640	39%			\$640		\$68,667	\$68,667	
539	MORGAN HILL BUS. PARK	\$11,867	\$111	25%			\$111		\$11,978	\$11,977	
542	SUTTER BUSINESS PARK	\$24,910	\$235	32%			\$235		\$25,145	\$25,145	
545	COCHRANE BUSINESS PARK	\$374,418	\$109,906	92%	\$147,921	76%	(\$38,015)		\$336,403	\$155,453	\$180,950
551	JOLEEN WAY	\$29,157	\$17,875	51%	\$31,843	79%	(\$13,968)		\$15,189	(\$2,060)	\$17,250
<b>TOTAL DEBT SERVICE FUNDS</b>		<b>\$508,379</b>	<b>\$128,767</b>	<b>82%</b>	<b>\$179,764</b>	<b>76%</b>	<b>(\$50,997)</b>		<b>\$457,382</b>	<b>\$259,182</b>	<b>\$198,200</b>



**City of Morgan Hill**  
**Fund Activity Summary - Fiscal Year 2003/04**  
**For the Month of January 31, 2004**  
**58% of Year Completed**

Fund No.	Fund	Fund Balance 06-30-03	Revenues		Expenses		Year to-Date Deficit or Carryover	Ending Fund Balance		Cash and Investments	
			YTD Actual	% of Budget	YTD Actual	% of Budget		Reserved <sup>1</sup>	Unreserved	Unrestricted	Restricted <sup>2</sup>
640	SEWER OPERATIONS	\$16,004,091	\$3,232,607	59%	\$4,859,707	65%	(\$1,627,100)	\$11,014,245	\$3,362,746	\$2,945,507	\$1,849,410
641	SEWER IMPACT FUND	\$7,772,110	\$1,434,312	229%	\$269,720	7%	\$1,164,592	3,243,313	\$5,693,389		\$5,851,363
642	SEWER RATE STABILIZATION	\$3,804,228	\$35,859	40%	\$1,382	58%	\$34,477		\$3,838,705	\$3,838,704	
643	SEWER-CAPITAL PROJECTS	\$9,683,556	\$277,217	53%	\$435,058	27%	(\$157,841)	7,139,442	\$2,386,273	\$2,820,779	
650	WATER OPERATIONS	\$21,476,576	\$5,098,532	72%	\$3,992,836	9%	\$1,105,696	\$19,540,886	\$3,041,387	\$2,923,202	\$390,251
651	WATER IMPACT FUND	\$3,271,280	\$794,379	120%	\$710,788	27%	\$83,591	3,798,513	(\$443,643)		(\$31,291)
652	WATER RATE STABILIZATION	\$867,428	\$6,423	31%	\$496,155	58%	(\$489,732)		\$377,696	\$377,696	
653	WATER -CAPITAL PROJECT	\$9,092,130	\$557,897	139%	\$668,075	23%	(\$110,178)	6,011,162	\$2,970,790	\$3,747,302	
<b>TOTAL ENTERPRISE FUNDS</b>		<b>\$71,971,399</b>	<b>\$11,437,226</b>	<b>77%</b>	<b>\$11,433,721</b>	<b>42%</b>	<b>\$3,505</b>	<b>\$50,747,561</b>	<b>\$21,227,343</b>	<b>\$16,653,190</b>	<b>\$8,059,733</b>
730	DATA PROCESSING	\$436,026	\$143,069	58%	\$123,635	47%	\$19,434	146,360	\$309,100	\$403,399	
740	BUILDING MAINTENANCE	\$400,151	\$521,227	58%	\$231,601	35%	\$289,626	29,198	\$660,579	\$701,899	
745	CIP ADMINISTRATION	\$59,437	\$738,149	51%	\$738,149	48%		125,532	(\$66,095)	\$101,080	
760	UNEMPLOYMENT INS.	\$47,278	\$7,363	25%	\$15,990	53%	(\$8,627)		\$38,651	\$38,651	
770	WORKER'S COMP.	\$6,147	\$269,404	39%	\$456,753	62%	(\$187,349)	32,149	(\$213,351)	\$371,418	\$40,000
790	EQUIPMENT REPLACEMENT	\$3,379,971	\$145,745	73%	\$43,025	16%	\$102,720	554,033	\$2,928,658	\$2,928,659	
793	CORPORATION YARD	\$264,851	\$58,177	36%	\$59,454	35%	(\$1,277)	235,312	\$28,262	\$4,671	
795	GEN'L LIABILITY INS.	\$856,668	\$226,608	58%	\$320,299	86%	(\$93,691)		\$762,977	\$1,088,794	
<b>TOTAL INTERNAL SERVICE FUNDS</b>		<b>\$5,450,529</b>	<b>\$2,109,742</b>	<b>52%</b>	<b>\$1,988,906</b>	<b>49%</b>	<b>\$120,836</b>		<b>\$4,448,781</b>	<b>\$5,638,571</b>	<b>\$40,000</b>
820	SPECIAL DEPOSITS									\$745,549	
841	M.H. BUS.RANCH A.D.	\$1,649,856	\$357,135	49%	\$986,948	136%	(\$629,813)		\$1,020,043	\$441,718	\$578,325
842	M.H. BUS. RANCH II A.D.	\$107,240	\$30,556	82%	\$41,512	107%	(\$10,956)		\$96,284	\$36,771	\$59,513
843	M.H. BUS. RANCH 1998	\$1,492,569	\$416,470	82%	\$584,699	67%	(\$168,229)		\$1,324,340	\$437,982	\$886,035
845	MADRONE BP-TAX EXEMPT	\$1,312,253	\$397,450		\$508,688	64%	(\$111,238)		\$1,201,015	\$401,456	\$799,269
846	MADRONE BP-TAXABLE	\$256,944	\$83,442	50%	\$97,961	57%	(\$14,519)		\$242,424	\$88,050	\$154,317
848	TENNANT AVE.BUS.PK A.D.	\$360,919	\$63,532	82%		na	\$63,532		\$424,451	\$424,452	
881	POLICE DONATION TRUST FUND	\$20,938	\$202	82%			\$202		\$21,140		\$21,141
<b>TOTAL AGENCY FUNDS</b>		<b>\$5,200,719</b>	<b>\$1,348,787</b>	<b>50%</b>	<b>\$2,219,808</b>	<b>85%</b>	<b>(\$871,021)</b>		<b>\$4,329,697</b>	<b>\$2,575,978</b>	<b>\$2,498,600</b>
<b>SUMMARY BY FUND TYPE</b>											
GENERAL FUND GROUP		\$11,136,505	\$8,438,817	53%	\$8,712,713	53%	(\$273,896)	\$381,865	\$10,480,744	\$10,871,311	\$4,150
SPECIAL REVENUE GROUP		\$6,911,827	\$3,087,722	68%	\$3,686,630	40%	(\$598,908)	\$1,965,866	\$4,347,053	\$5,757,371	
DEBT SERVICE GROUP		\$508,379	\$128,767	82%	\$179,764	76%	(\$50,997)		\$457,382	\$259,182	\$198,200
CAPITAL PROJECTS GROUP		\$68,236,786	\$13,870,916	35%	\$24,206,163	35%	(\$10,335,247)	\$31,924,653	\$25,976,886	\$22,699,274	\$14,798,425
ENTERPRISE GROUP		\$71,971,399	\$11,437,226	77%	\$11,433,721	42%	\$3,505	\$50,747,561	\$21,227,343	\$16,653,190	\$8,059,733
INTERNAL SERVICE GROUP		\$5,450,529	\$2,109,742	52%	\$1,988,906	49%	\$120,836		\$4,448,781	\$5,638,571	\$40,000
AGENCY GROUP		\$5,200,719	\$1,348,787	50%	\$2,219,808	85%	(\$871,021)		\$4,329,697	\$2,575,978	\$2,498,600
<b>TOTAL ALL GROUPS</b>		<b>\$169,416,144</b>	<b>\$40,421,977</b>	<b>49%</b>	<b>\$52,427,705</b>	<b>41%</b>	<b>(\$12,005,728)</b>	<b>\$85,019,945</b>	<b>\$71,267,886</b>	<b>\$64,454,877</b>	<b>\$25,599,108</b>
<b>TOTAL CASH AND INVESTMENTS</b>										<b>\$90,053,985</b>	

For Enterprise Funds - Unrestricted fund balance = Fund balance net of fixed assets and long-term liabilities.

<sup>1</sup> Amount restricted for encumbrances, fixed asset replacement, long-term receivables, and bond reserves.

<sup>2</sup> Amount restricted for debt service payments and AB1600 capital expansion projects as detailed in the City's five year CIP Plan and bond agreements.



**CITY OF MORGAN HILL CASH AND INVESTMENT REPORT**  
**FOR THE MONTH OF JANUARY 2004**  
**FOR THE FISCAL YEAR OF 2003-04**

	Invested in Fund	Yield	Book Value End of Month	Investment Category Subtotal at Cost	% of Total	Market Value
<b><u>Investments</u></b>						
State Treasurer LAIF - City	All Funds Pooled	1.53%	\$39,999,503		44.41%	\$40,023,161
- RDA	RDA	1.53%	\$6,438,854		7.15%	\$6,442,663
- Corp Yard	Corp Yard	1.53%	\$52,013		0.06%	\$52,044
Federal Issues	All Funds Pooled	3.55%	\$34,204,952		37.98%	\$34,375,000
SVNB CD	All Funds Pooled	1.70%	\$2,000,000		2.22%	\$2,000,000
Money Market	All Funds Pooled	0.77%	\$733,945	\$83,429,267	0.82%	\$733,945
<b><u>Bond Reserve Accounts - held by trustees</u></b>						
BNY - 2002 SCRWA Bonds						
MBIA Repurchase & Custody Agmt	Sewer	4.78%	\$1,805,245			
Blackrock Provident Temp Fund		0.75%	\$44,166		2.05%	\$1,849,410 *
US Bank - 1999 Water C.O.P.						
First American Treasury Obligation	Water	0.71%	\$390,251		0.43%	\$390,251 *
US Bank - MH Ranch 98	MH Ranch					
First American Treasury Obligation	Agency Fund	0.71%	\$886,035		0.98%	\$886,035 *
US Bank - Madrone Bus Park Tax Exempt	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.71%	\$799,268		0.89%	\$799,268 *
US Bank - Madrone Bus Park Taxable	Madrone Bus Park					
First American Treasury Obligation	Agency Fund	0.71%	\$154,317	\$4,079,282	0.17%	\$154,317 *
<b><u>Checking Accounts</u></b>						
General Checking	All Funds		\$1,500,000		1.67%	\$1,500,000
Dreyfuss Treas Cash Management Account	All Funds		\$1,001,285		1.11%	\$1,001,285
Athens Administrators Workers' Comp	Workers' Comp		\$40,000		0.04%	\$40,000
Petty Cash & Emergency Cash	Various Funds		\$4,150	\$2,545,435	0.00%	\$4,150
<b>Total Cash and Investments</b>			<b><u>\$90,053,984</u></b>	<b><u>\$90,053,984</u></b>	<b><u>100.00%</u></b>	<b><u>\$90,251,530</u></b>

**CASH ACTIVITY SUMMARY**  
**FY 03/04**

Fund Type	7/1/2003 Balance	Change in Cash Balance	01/31/04 Balance	Restricted	Unrestricted
General Fund	\$11,198,677	(\$323,217)	\$10,875,460	\$4,150	\$10,871,310
Community Development	\$1,598,168	\$50,396	\$1,648,564	\$0	\$1,648,564
RDA (except Housing)	\$18,789,948	(\$9,873,378)	\$8,916,570	\$0	\$8,916,570
Housing / CDBG	\$6,264,517	(\$1,435,176)	\$4,829,341	\$0	\$4,829,341
Water - Operations	\$2,197,360	\$1,116,093	\$3,313,453	\$390,251	\$2,923,202
Water Other	\$4,882,333	(\$788,626)	\$4,093,707	-\$31,291	\$4,124,998
Sewer - Operations	\$6,399,908	(\$1,604,991)	\$4,794,917	\$1,849,410	\$2,945,507
Sewer Other	\$11,899,860	\$610,987	\$12,510,847	\$5,851,364	\$6,659,483
Other Special Revenue	\$3,011,901	(\$221,352)	\$2,790,549	\$0	\$2,790,549
Streets and Capital Projects (except RDA)	\$24,402,072	\$667,975	\$25,070,047	\$14,798,425	\$10,271,622
Assessment Districts	\$504,821	(\$47,439)	\$457,382	\$198,200	\$259,182
Internal Service	\$5,993,387	(\$314,816)	\$5,678,571	\$40,000	\$5,638,571
Agency Funds	<u>\$5,943,872</u>	<u>(\$869,296)</u>	<u>\$5,074,576</u>	<u>\$2,498,599</u>	<u>\$2,575,977</u>
<b>Total</b>	<b><u>\$103,086,824</u></b>	<b><u>(\$13,032,840)</u></b>	<b><u>\$90,053,984</u></b>	<b><u>\$25,599,108</u></b>	<b><u>\$64,454,877</u></b>

Note: See Investment Portfolio Detail for maturities of "Investments." Market values are obtained from the City's investment brokers' monthly reports.  
 \*Market Value as of 12/31/03

I certify the information on the investment reports on pages 6-8 has been reconciled to the general ledger and bank statements and that there are sufficient funds to meet the expenditure requirements of the City for the next six months. The portfolio is in compliance with the City of Morgan Hill investment policy and all State laws and regulations.

Prepared by: \_\_\_\_\_  
 Lourdes Reroma  
 Accountant I

Approved by: \_\_\_\_\_  
 Jack Dilles  
 Director of Finance

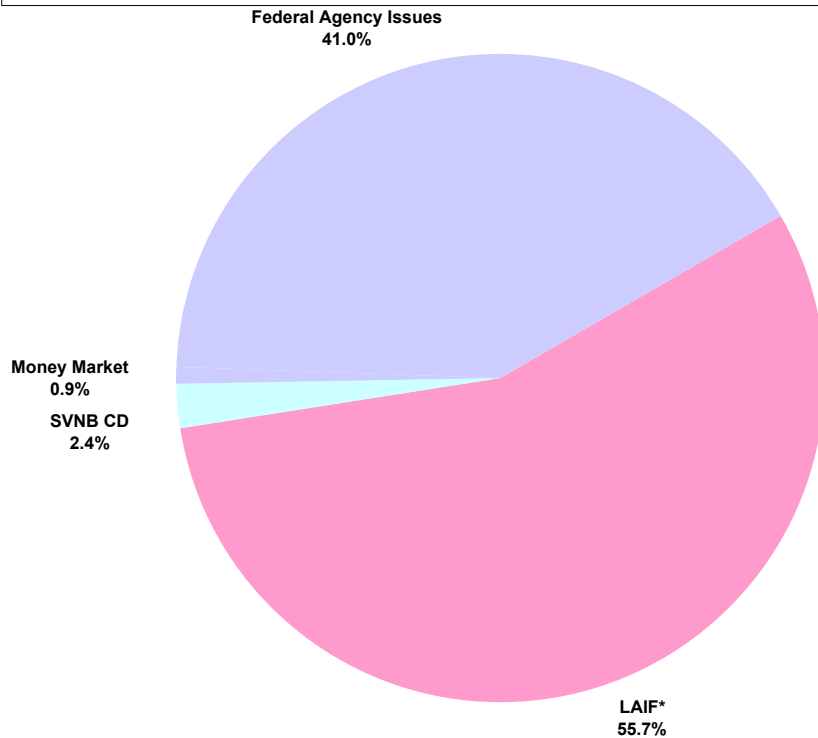
Verified by: \_\_\_\_\_  
 Tina Reza  
 Assistant Director of Finance

\_\_\_\_\_  
 Mike Roorda  
 City Treasurer



# CITY OF MORGAN HILL

## INVESTMENT PORTFOLIO DETAIL as of 01/31/04



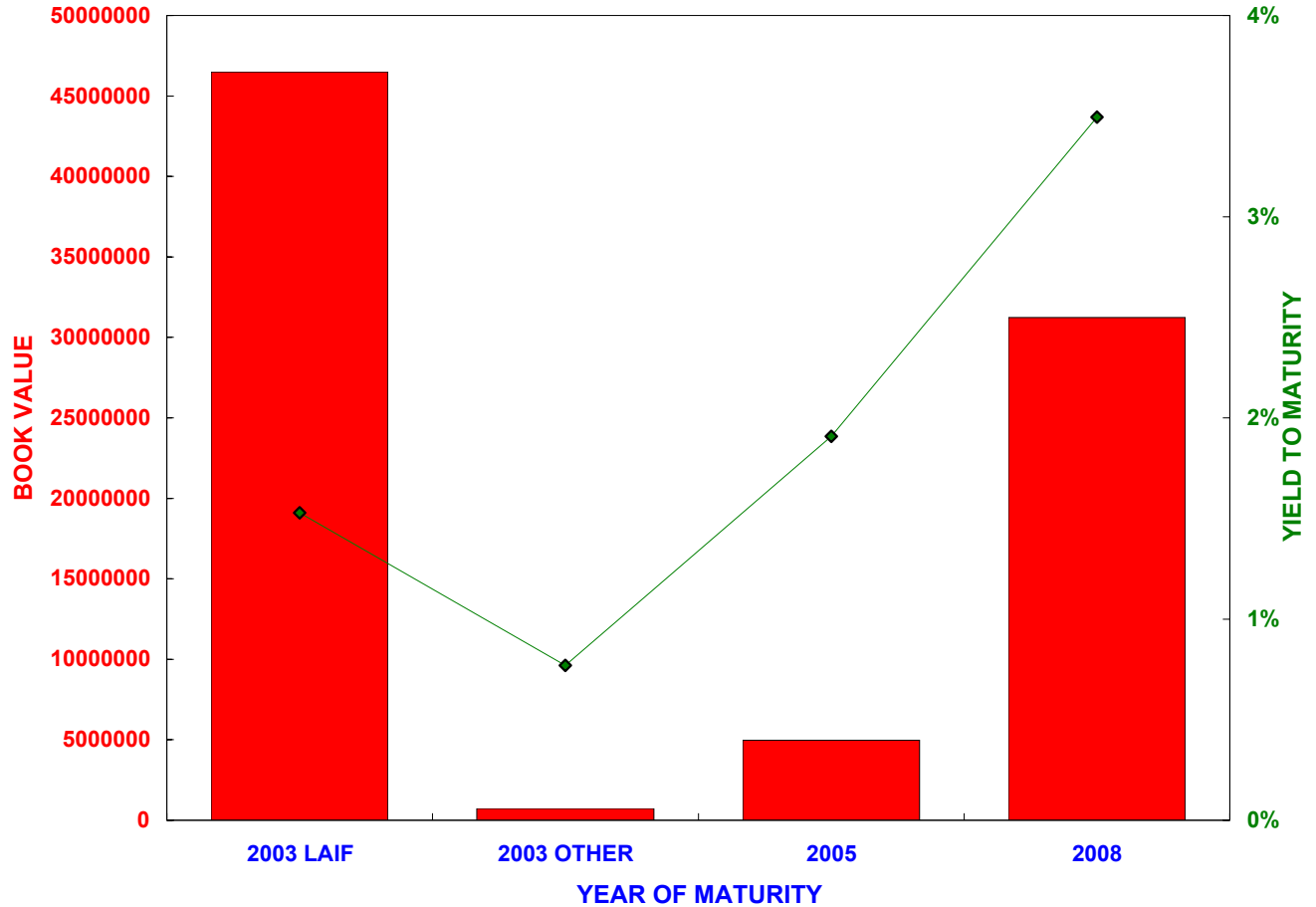
Investment Type	Purchase Date	Book Value	% of Portfolio	Market Value	Stated Rate	Interest Earned	Next Call Date	Date of Maturity	Years to Maturity
<b>LAIF*</b>									
SVN CD	07/07/03	\$2,000,000	2.40%	\$2,000,000	1.700%	\$19,739		07/07/05	1.430
<b>Federal Agency Issues</b>									
Fed Home Loan Bank	10/28/03	\$2,960,000	3.55%	\$2,947,065	2.050%	\$15,784	02/28/04	10/28/05	1.740
Fed Home Loan Bank	02/04/03	\$2,000,000	2.40%	\$2,000,000	3.900%	\$45,690	anytime	02/04/08	4.011
Fed Home Loan Bank	03/11/03	\$2,000,000	2.40%	\$2,004,380	3.500%	\$41,196	03/11/04	03/11/08	4.110
Fed Home Loan Mgt Corp	03/12/03	\$2,000,000	2.40%	\$2,005,540	3.500%	\$41,194	03/12/04	03/12/08	4.112
Fed Home Loan Bank	03/26/03	\$2,000,000	2.40%	\$2,001,260	3.375%	\$39,694	03/26/04	03/26/08	4.151
Fed Home Loan Mgt Corp	04/08/03	\$2,000,000	2.40%	\$2,008,820	3.700%	\$43,470	04/08/04	04/08/08	4.186
Fed Home Loan Mgt Corp	04/16/03	\$2,000,000	2.40%	\$2,008,440	3.600%	\$42,295	04/16/04	04/16/08	4.208
Fed Home Loan Mgt Corp	04/17/03	\$1,994,952	2.39%	\$2,207,040	3.625%	\$44,070	04/17/04	04/17/08	4.211
Fed Farm Credit Bank	05/14/03	\$2,000,000	2.40%	\$2,000,000	3.650%	\$42,822	anytime	05/14/08	4.285
Fed Farm Credit Bank	06/03/03	\$2,000,000	2.40%	\$1,989,380	3.210%	\$37,713	04/03/04	06/03/08	4.340
Fed Farm Credit Bank	06/12/03	\$2,000,000	2.40%	\$1,970,000	2.950%	\$34,658	04/30/04	06/12/08	4.364
Fed Home Loan Bank	07/30/03	\$2,000,000	2.40%	\$1,971,260	3.000%	\$30,330	04/30/04	07/30/08	4.496
Fed Home Loan Bank	07/30/03	\$2,000,000	2.40%	\$1,988,760	3.243%	\$33,059	04/30/04	07/30/08	4.496
Fed Home Loan Bank	07/30/03	\$2,000,000	2.40%	\$1,996,260	3.400%	\$34,374	04/30/04	07/30/08	4.496
Fed Home Loan Bank	08/04/03	\$2,000,000	2.40%	\$2,000,000	3.650%	\$35,905	02/04/04	08/04/08	4.510
Fed Home Loan Bank	08/14/03	\$1,250,000	1.50%	\$1,251,175	3.690%	\$21,433	02/14/04	08/14/08	4.537
Fed Home Loan Bank	10/15/03	\$2,000,000	2.40%	\$2,025,620	4.000%	\$11,913	10/15/04	10/15/08	4.707
Redeemed FY 03/04						\$75,220			
<b>Sub Total/Average</b>		<b>\$34,204,952</b>	<b>41.00%</b>	<b>\$34,375,000</b>	<b>3.545%</b>	<b>\$670,820</b>			<b>4.099</b>
<b>Money Market</b>									
		<b>\$733,945</b>	<b>0.88%</b>	<b>\$733,945</b>	<b>0.770%</b>	<b>\$6,918</b>			<b>0.003</b>
<b>TOTAL/AVERAGE</b>		<b>\$83,429,267</b>	<b>100.00%</b>	<b>\$83,626,812</b>	<b>2.281%</b>	<b>\$1,119,786</b>			<b>1.732</b>

\*Per State Treasurer Report dated 12/31/2003, LAIF had invested approximately 16% of its balance in Treasury Bills and Notes, 14% in CDs, 22% in Commercial Paper and Corporate Bonds, 0% in Banker's Acceptances and 48% in others.



# CITY OF MORGAN HILL

## INVESTMENT MATURITIES AS OF JANUARY 31, 2004



YEAR OF MATURITY	BOOK VALUE	MARKET VALUE	AVERAGE RATE	% OF TOTAL
2003 LAIF	\$46,490,370	\$46,517,868	1.528%	55.72%
2003 OTHER	\$733,945	\$733,945	0.770%	0.88%
2005	\$4,960,000	\$4,947,065	1.909%	5.95%
2008	\$31,244,952	\$31,427,935	3.495%	37.45%
TOTAL	\$83,429,267	\$83,626,812	2.281%	100.00%



City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>010 GENERAL FUND</b>							
<b><u>TAXES</u></b>							
Property Taxes - Secured/Unsecured/Prio	1,972,200	1,972,200	1,485,162	75%	1,393,681	91,481	7%
Supplemental Roll	200,000	200,000	62,091	31%	45,850	16,241	35%
Sales Tax	4,650,000	4,650,000	2,440,917	52%	2,759,001	(318,084)	-12%
Public Safety Sales Tax	273,000	273,000	121,799	45%	134,652	(12,853)	-10%
Transient Occupancy Taxes	890,000	890,000	437,952	49%	469,711	(31,759)	-7%
Franchise (Refuse ,Cable ,PG&E)	961,180	961,180	277,386	29%	250,688	26,698	11%
Property Transfer Tax	267,800	267,800	227,986	85%	130,187	97,799	75%
<b>TOTAL TAXES</b>	<b>9,214,180</b>	<b>9,214,180</b>	<b>5,053,293</b>	<b>55%</b>	<b>5,183,770</b>	<b>(130,477)</b>	<b>-3%</b>
<b><u>LICENSES/PERMITS</u></b>							
Business License	154,500	154,500	141,546	92%	142,663	(1,117)	-1%
Other Permits	48,100	48,100	30,177	63%	31,070	(893)	-3%
<b>TOTAL LICENSES/PERMITS</b>	<b>202,600</b>	<b>202,600</b>	<b>171,723</b>	<b>85%</b>	<b>173,733</b>	<b>(2,010)</b>	<b>-1%</b>
<b><u>FINES AND PENALTIES</u></b>							
Parking Enforcement	13,400	13,400	7,203	54%	5,975	1,228	21%
City Code Enforcement	77,300	77,300	20,240	26%	30,705	(10,465)	-34%
Business tax late fee/other fines	2,600	2,600	548	21%	1,693	(1,145)	-68%
<b>TOTAL FINES AND PENALTIES</b>	<b>93,300</b>	<b>93,300</b>	<b>27,991</b>	<b>30%</b>	<b>38,373</b>	<b>(10,382)</b>	<b>-27%</b>
<b><u>OTHER AGENCIES</u></b>							
Motor Vehicle in-Lieu	2,080,000	2,080,000	703,158	34%	1,169,751	(466,593)	-40%
Other Revenue - Other Agencies	271,900	271,900	148,325	55%	60,346	87,979	146%
<b>TOTAL OTHER AGENCIES</b>	<b>2,351,900</b>	<b>2,351,900</b>	<b>851,483</b>	<b>36%</b>	<b>1,230,097</b>	<b>(378,614)</b>	<b>-31%</b>
<b><u>CHARGES CURRENT SERVICES</u></b>							
False Alarm Charge	24,700	24,700	11,925	48%	20,619	(8,694)	-42%
Business License Application Review	20,900	20,900	14,483	69%	13,551	932	7%
Recreation Classes	338,784	338,784	112,481	33%	48,782	63,699	131%
General Administration Overhead	2,007,978	2,007,978	1,171,321	58%	1,082,628	88,693	8%
Other Charges Current Services	195,775	195,775	140,734	72%	123,141	17,593	14%
<b>TOTAL CURRENT SERVICES</b>	<b>2,588,137</b>	<b>2,588,137</b>	<b>1,450,944</b>	<b>56%</b>	<b>1,288,721</b>	<b>162,223</b>	<b>13%</b>
<b><u>OTHER REVENUE</u></b>							
Use of money/property	775,550	775,550	416,108	54%	291,931	124,177	43%
Other revenues	24,200	24,200	5,608	23%	18,939	(13,331)	-70%
<b>TOTAL OTHER REVENUE</b>	<b>799,750</b>	<b>799,750</b>	<b>421,716</b>	<b>53%</b>	<b>310,870</b>	<b>110,846</b>	<b>36%</b>
<b><u>TRANSFERS IN</u></b>							
Park Maintenance	200,000	200,000	100,001	50%	50,000	50,001	100%
Sewer Enterprise	17,500	17,500	10,208	58%	10,208	-	n/a
Water Enterprise	17,500	17,500	10,208	58%	10,208	-	n/a
Public Safety	273,000	273,000	159,250	58%	121,232	38,018	31%
Community Cultural Center	312,000	312,000	182,000	58%	-	182,000	n/a
Other Funds	3,986	3,986	-	n/a	-	-	n/a
<b>TOTAL TRANSFERS IN</b>	<b>823,986</b>	<b>823,986</b>	<b>461,667</b>	<b>56%</b>	<b>191,648</b>	<b>270,019</b>	<b>141%</b>
<b>TOTAL GENERAL FUND</b>	<b>16,073,853</b>	<b>16,073,853</b>	<b>8,438,817</b>	<b>53%</b>	<b>8,417,212</b>	<b>21,605</b>	<b>0%</b>



City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>SPECIAL REVENUE FUNDS</b>							
<b><u>202 STREET MAINTENANCE</u></b>							
Gas Tax 2105 - 2107.5	653,400	653,400	390,928	60%	455,942	(65,014)	-14%
Measure A & B	-	-	-	n/a	-	-	n/a
Tea 21	-	-	-	n/a	-	-	n/a
Transfers In	700,000	700,000	400,000	57%	538,500	(138,500)	-26%
Project Reimbursement	-	-	106,236	n/a	70,402	35,834	51%
Interest / Other Revenue/Other Charges	14,861	14,861	16,027	108%	10,608	5,419	51%
<b>202 STREET MAINTENANCE</b>	<b>1,368,261</b>	<b>1,368,261</b>	<b>913,191</b>	<b>67%</b>	<b>1,075,452</b>	<b>(162,261)</b>	<b>-15%</b>
<b><u>204/205 PUBLIC SAFETY TRUST</u></b>							
Interest Income	9,956	9,956	4,295	43%	10,894	(6,599)	-61%
Police Grant/SLEF	100,000	100,000	100,000	100%	100,000	-	n/a
PD Block Grant	-	-	-	n/a	-	-	n/a
CA Law Enforcement Equip. Grant	-	-	-	n/a	20,765	(20,765)	-100%
Federal Police Grant (COPS)	-	-	-	n/a	17,874	(17,874)	-100%
Transfers In	-	834	-	n/a	-	-	n/a
<b>204/205 PUBLIC SAFETY TRUST</b>	<b>109,956</b>	<b>110,790</b>	<b>104,295</b>	<b>94%</b>	<b>149,533</b>	<b>(45,238)</b>	<b>-30%</b>
<b><u>206 COMMUNITY DEVELOPMENT</u></b>							
Building Fees	1,100,500	1,100,500	1,205,727	110%	698,585	507,142	73%
Planning Fees	616,496	616,496	274,948	45%	351,510	(76,562)	-22%
Engineering Fees	519,600	519,600	162,238	31%	377,030	(214,792)	-57%
Other Revenue/Current Charges	9,763	9,763	16,651	171%	31,191	(14,540)	-47%
Transfers	30,000	30,000	17,500	58%	-	17,500	n/a
<b>206 COMMUNITY DEVELOPMENT</b>	<b>2,276,359</b>	<b>2,276,359</b>	<b>1,677,064</b>	<b>74%</b>	<b>1,458,316</b>	<b>218,748</b>	<b>15%</b>
<b>207 GENERAL PLAN UPDATE</b>	<b>76,087</b>	<b>76,087</b>	<b>60,193</b>	<b>79%</b>	<b>68,973</b>	<b>(8,780)</b>	<b>-13%</b>
<b><u>215 and 216 HCD BLOCK GRANT</u></b>							
HCD allocation	152,000	152,000	-	n/a	-	-	n/a
Interest Income/Other Revenue	3,900	3,900	6,580	169%	15,279	(8,699)	-57%
Transfers	782	782	-	n/a	-	-	n/a
<b>215 and 216 HCD BLOCK GRANT</b>	<b>156,682</b>	<b>156,682</b>	<b>6,580</b>	<b>4%</b>	<b>15,279</b>	<b>(8,699)</b>	<b>-57%</b>
<b>210 COMMUNITY CENTER</b>	<b>6,198</b>	<b>6,198</b>	<b>2,751</b>	<b>44%</b>	<b>113,727</b>	<b>(110,976)</b>	<b>-98%</b>
<b>220 MUSEUM RENTAL</b>	<b>41</b>	<b>41</b>	<b>8</b>	<b>20%</b>	<b>54</b>	<b>(46)</b>	<b>-85%</b>
<b>225 ASSET SEIZURE</b>	<b>583</b>	<b>583</b>	<b>359</b>	<b>62%</b>	<b>862</b>	<b>(503)</b>	<b>-58%</b>
<b>226 OES/FEMA</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>n/a</b>	<b>-</b>	<b>-</b>	<b>n/a</b>
<b>229 LIGHTING AND LANDSCAPE</b>	<b>127,770</b>	<b>127,770</b>	<b>68,917</b>	<b>54%</b>	<b>68,325</b>	<b>592</b>	<b>1%</b>
<b>232 ENVIRONMENTAL PROGRAMS</b>	<b>387,209</b>	<b>387,209</b>	<b>203,671</b>	<b>53%</b>	<b>275,667</b>	<b>(71,996)</b>	<b>-26%</b>
<b>234 MOBILE HOME PARK RENT STAB.</b>	<b>6,298</b>	<b>6,298</b>	<b>5,044</b>	<b>80%</b>	<b>6,665</b>	<b>(1,621)</b>	<b>-24%</b>
<b>235 SENIOR HOUSING</b>	<b>6,897</b>	<b>6,897</b>	<b>2,407</b>	<b>35%</b>	<b>9,362</b>	<b>(6,955)</b>	<b>-74%</b>
<b>236 HOUSING MITIGATION</b>	<b>27,775</b>	<b>27,775</b>	<b>24,857</b>	<b>89%</b>	<b>16,862</b>	<b>7,995</b>	<b>47%</b>
<b>240 EMPLOYEE ASSISTANCE</b>	<b>20,162</b>	<b>20,162</b>	<b>18,385</b>	<b>91%</b>	<b>40,328</b>	<b>(21,943)</b>	<b>-54%</b>
<b>TOTAL SPECIAL REVENUE FUNDS</b>	<b>4,570,278</b>	<b>4,571,112</b>	<b>3,087,722</b>	<b>68%</b>	<b>3,299,405</b>	<b>(211,683)</b>	<b>-6%</b>





City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>CAPITAL PROJECTS FUNDS</b>							
301 PARK DEVELOPMENT	435,072	435,072	521,407	120%	279,637	241,770	86%
302 PARK MAINTENANCE	257,923	257,923	119,915	46%	269,683	(149,768)	-56%
303 LOCAL DRAINAGE	291,028	291,028	110,938	38%	253,120	(142,182)	-56%
304 LOCAL DRAINAGE/NON AB1600	157,378	157,378	90,115	57%	200,727	(110,612)	-55%
305 OFF-STREET PARKING	95	95	38	40%	64	(26)	-41%
306 OPEN SPACE	57,428	57,428	107,129	187%	4,017	103,112	2567%
309 TRAFFIC MITIGATION	662,507	662,507	960,019	145%	299,743	660,276	220%
311 POLICE MITIGATION	51,569	51,569	49,115	95%	55,771	(6,656)	-12%
313 FIRE MITIGATION	147,884	147,884	145,889	99%	140,408	5,481	4%
<b>317 RDA CAPITAL PROJECTS</b>							
Property Taxes & Supplemental Roll	14,086,573	14,086,573	8,782,459	62%	7,865,761	916,698	12%
Development Agreements			-	n/a	-	-	n/a
Interest Income, Rents			122,746	n/a	206,331	(83,585)	-41%
Other Agencies/Current Charges	9,450,000	9,450,000	20,970	0%	16,550	4,420	27%
<b>317 RDA CAPITAL PROJECTS</b>	<b>23,536,573</b>	<b>23,536,573</b>	<b>8,926,175</b>	<b>38%</b>	<b>8,088,642</b>	<b>837,533</b>	<b>10%</b>
<b>327/328 RDA L/M HOUSING</b>							
Property Taxes & Supplemental Roll	3,791,085	3,791,085	2,195,615	58%	2,134,615	61,000	3%
Interest Income, Rent	45,364	45,364	72,681	160%	75,689	(3,008)	-4%
Other	90	90	1,013	1126%	600	413	69%
<b>327/328 RDA L/M HOUSING</b>	<b>3,836,539</b>	<b>3,836,539</b>	<b>2,269,309</b>	<b>59%</b>	<b>2,210,904</b>	<b>58,405</b>	<b>3%</b>
346 PUBLIC FACILITIES NON-AB1600	9,875,877	9,875,877	40,692	0%	242,853	(202,161)	-83%
347 PUBLIC FACILITIES	46,900	46,900	447,412	954%	55,595	391,817	705%
348 LIBRARY	30,782	30,782	43,807	142%	24,426	19,381	79%
350 UNDERGROUNDING	31,495	31,495	37,681	120%	53,684	(16,003)	-30%
340 MORGAN HILL BUS.RANCH CIP I	1,144	1,144	455	40%	765	(310)	-41%
342 MORGAN HILL BUS.RANCH CIP II	1,282	1,282	511	40%	860	(349)	-41%
360 COMMUNITY/REC IMPACT FUND			309	n/a	-	309	n/a
<b>TOTAL CAPITAL PROJECTS FUNDS</b>	<b>39,421,476</b>	<b>39,421,476</b>	<b>13,870,916</b>	<b>35%</b>	<b>12,180,899</b>	<b>1,690,017</b>	<b>14%</b>

**DEBT SERVICE FUNDS**

527 HIDDEN CREEK	-	-	-	n/a	-	-	n/a
533 DUNNE AVE. / CONDOT ROAD	-	-	-	n/a	-	-	n/a
536 ENCINO HILLS	1,631	1,631	640	39%	1,073	(433)	-40%
539 MORGAN HILL BUSINESS PARK	447	447	111	25%	183	(72)	-39%
542 SUTTER BUSINESS PARK	730	730	235	32%	395	(160)	-41%
545 COCHRANE BUSINESS PARK	119,887	119,887	109,906	92%	122,068	(12,162)	-10%
551 JOLEEN WAY	34,955	34,955	17,875	51%	16,919	956	6%
<b>TOTAL DEBT SERVICE FUNDS</b>	<b>157,650</b>	<b>157,650</b>	<b>128,767</b>	<b>82%</b>	<b>140,638</b>	<b>(11,871)</b>	<b>-8%</b>





City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>ENTERPRISE FUNDS</b>							
<b>640 SEWER OPERATION</b>							
Sewer Service Fees	5,321,460	5,321,460	3,096,672	58%	2,945,666	151,006	5%
Interest Income	51,960	51,960	32,375	62%	73,207	(40,832)	-56%
Sewer Rate Stabilization	-	-	-	n/a	-	-	n/a
Other Revenue/Current Charges	<u>113,950</u>	<u>113,950</u>	<u>103,560</u>	<u>91%</u>	<u>97,642</u>	<u>5,918</u>	<u>6%</u>
<b>640 SEWER OPERATION</b>	<b>5,487,370</b>	<b>5,487,370</b>	<b>3,232,607</b>	<b>59%</b>	<b>3,116,515</b>	<b>116,092</b>	<b>4%</b>
<b>641 SEWER EXPANSION</b>							
Interest Income	26,580	26,580	50,429	190%	95,109	(44,680)	-47%
Connection Fees	600,000	600,000	1,383,421	231%	293,759	1,089,662	371%
Other	<u>-</u>	<u>-</u>	<u>462</u>	<u>n/a</u>	<u>462</u>	<u>-</u>	<u>n/a</u>
<b>641 SEWER EXPANSION</b>	<b>626,580</b>	<b>626,580</b>	<b>1,434,312</b>	<b>229%</b>	<b>389,330</b>	<b>1,044,982</b>	<b>268%</b>
<b>642 SEWER RATE STABILIZATION</b>	<b>89,558</b>	<b>89,558</b>	<b>35,859</b>	<b>40%</b>	<b>270,921</b>	<b>(235,062)</b>	<b>-87%</b>
<b>643 SEWER-CAPITAL PROJECT</b>	<b>525,416</b>	<b>525,416</b>	<b>277,217</b>	<b>53%</b>	<b>308,274</b>	<b>(31,057)</b>	<b>-10%</b>
<b>TOTAL SEWER FUNDS</b>	<b>6,728,924</b>	<b>6,728,924</b>	<b>4,979,995</b>	<b>74%</b>	<b>4,085,040</b>	<b>894,955</b>	<b>22%</b>
<b>650 WATER OPERATION</b>							
Water Sales	5,738,350	5,738,350	4,238,506	74%	3,901,724	336,782	9%
Meter Install & Service	40,000	40,000	24,961	62%	31,958	(6,997)	-22%
Transfers-In, and Interest Income	1,045,785	1,045,785	646,346	62%	168,377	477,969	284%
Other Revenue/Current Charges	<u>249,584</u>	<u>249,584</u>	<u>188,719</u>	<u>76%</u>	<u>222,290</u>	<u>(33,571)</u>	<u>-15%</u>
<b>650 WATER OPERATION</b>	<b>7,073,719</b>	<b>7,073,719</b>	<b>5,098,532</b>	<b>72%</b>	<b>4,324,349</b>	<b>774,183</b>	<b>18%</b>
<b>651 WATER EXPANSION</b>							
Interest Income/Other Revenue/Transfer	501,803	501,803	561,739	112%	244,560	317,179	130%
Water Connection Fees	<u>160,000</u>	<u>160,000</u>	<u>232,640</u>	<u>145%</u>	<u>82,981</u>	<u>149,659</u>	<u>180%</u>
<b>651 WATER EXPANSION</b>	<b>661,803</b>	<b>661,803</b>	<b>794,379</b>	<b>120%</b>	<b>327,541</b>	<b>466,838</b>	<b>143%</b>
<b>652 Water Rate Stabilization</b>	<b>20,517</b>	<b>20,517</b>	<b>6,423</b>	<b>31%</b>	<b>13,754</b>	<b>(7,331)</b>	<b>-53%</b>
<b>653 Water Capital Project</b>	<b>402,395</b>	<b>402,395</b>	<b>557,897</b>	<b>139%</b>	<b>665,037</b>	<b>(107,140)</b>	<b>-16%</b>
<b>TOTAL WATER FUNDS</b>	<b>8,158,434</b>	<b>8,158,434</b>	<b>6,457,231</b>	<b>79%</b>	<b>5,330,681</b>	<b>1,126,550</b>	<b>21%</b>
<b>TOTAL ENTERPRISE FUNDS</b>	<b>14,887,358</b>	<b>14,887,358</b>	<b>11,437,226</b>	<b>77%</b>	<b>9,415,721</b>	<b>2,021,505</b>	<b>21%</b>
<b>INTERNAL SERVICE FUNDS</b>							
<b>730 INFORMATION SERVICES</b>	<b>245,262</b>	<b>245,262</b>	<b>143,069</b>	<b>58%</b>	<b>222,360</b>	<b>(79,291)</b>	<b>-36%</b>
<b>740 BUILDING MAINTENANCE SERVICES</b>	<b>891,042</b>	<b>891,042</b>	<b>521,227</b>	<b>58%</b>	<b>488,362</b>	<b>32,865</b>	<b>7%</b>
<b>745 CIP ADMINISTRATION</b>	<b>1,447,120</b>	<b>1,447,120</b>	<b>738,149</b>	<b>51%</b>	<b>720,808</b>	<b>17,341</b>	<b>2%</b>
<b>760 UNEMPLOYMENT INSURANCE</b>	<b>29,452</b>	<b>29,452</b>	<b>7,363</b>	<b>25%</b>		<b>7,363</b>	<b>n/a</b>
<b>770 WORKERS COMPENSATION</b>	<b>687,700</b>	<b>687,700</b>	<b>269,404</b>	<b>39%</b>	<b>257,526</b>	<b>11,878</b>	<b>5%</b>
<b>790 EQUIPMENT REPLACEMENT</b>	<b>198,367</b>	<b>198,367</b>	<b>145,745</b>	<b>73%</b>	<b>328,318</b>	<b>(182,573)</b>	<b>-56%</b>
<b>793 CORPORATION YARD COMMISSION</b>	<b>160,005</b>	<b>160,005</b>	<b>58,177</b>	<b>36%</b>	<b>840,936</b>	<b>(782,759)</b>	<b>-93%</b>
<b>795 GENERAL LIABILITY INSURANCE</b>	<b>389,927</b>	<b>389,927</b>	<b>226,608</b>	<b>58%</b>	<b>202,283</b>	<b>24,325</b>	<b>12%</b>
<b>TOTAL INTERNAL SERVICE FUNDS</b>	<b>4,048,875</b>	<b>4,048,875</b>	<b>2,109,742</b>	<b>52%</b>	<b>3,060,593</b>	<b>(950,851)</b>	<b>-31%</b>



City of Morgan Hill  
Year to Date Revenues - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND REVENUE SOURCE	ADOPTED BUDGET	AMENDED BUDGET	CURRENT YTD ACTUAL	% OF BUDGET	PRIOR YTD	INCR (DECR) FROM PRIOR YTD	% OF BUDGET
<b>AGENCY FUNDS</b>							
841 M.H. BUS.RANCH A.D. I	736,175	736,175	357,135	49%	257,710	99,425	39%
842 M.H. BUS.RANCH A.D. II	37,177	37,177	30,556	82%	17,011	13,545	80%
843 M.H. BUS.RANCH 1998	883,205	883,205	416,470	47%	460,792	(44,322)	-10%
845 MADRONE BP-TAX EXEMPT	807,439	807,439	397,450	49%	382,906	14,544	4%
846 MADRONE BP-TAXABLE	167,254	167,254	83,442	50%	121,654	(38,212)	-31%
848 TENNANT AVE.BUS.PK A.D.	39,523	39,523	63,532	161%	5,200	58,332	1122%
881 POLICE DONATION TRUST FUND	245	245	202	82%	332	(130)	-39%
<b>TOTAL AGENCY FUNDS</b>	<b>2,671,018</b>	<b>2,671,018</b>	<b>1,348,787</b>	<b>50%</b>	<b>1,245,605</b>	<b>103,182</b>	<b>8%</b>
<b>TOTAL FOR ALL FUNDS</b>	<b>81,830,508</b>	<b>81,831,342</b>	<b>40,421,977</b>	<b>49%</b>	<b>37,760,073</b>	<b>3,064,374</b>	<b>8%</b>



City of Morgan Hill  
Year to Date Expenses - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>010 GENERAL FUND</b>								
<b>I. GENERAL GOVERNMENT</b>								
<b>COUNCIL AND MISCELLANEOUS GOVT.</b>								
	City Council	27,281	194,400	194,400	130,934	18,992	149,926	77%
	Community Promotions	<u>3,783</u>	<u>31,542</u>	<u>31,542</u>	<u>13,942</u>	-	<u>13,942</u>	<u>44%</u>
	<b>COUNCIL AND MISCELLANEOUS GO</b>	<b>31,064</b>	<b>225,942</b>	<b>225,942</b>	<b>144,876</b>	<b>18,992</b>	<b>163,868</b>	<b>73%</b>
	<b>CITY ATTORNEY</b>	<b>38,986</b>	<b>615,917</b>	<b>615,917</b>	<b>310,102</b>	<b>101,931</b>	<b>412,033</b>	<b>67%</b>
<b>CITY MANAGER</b>								
	City Manager	26,863	391,162	391,162	210,725	404	211,129	54%
	Cable Television	825	45,236	46,986	22,048	19,573	41,621	89%
	Communications & Marketing	<u>5,766</u>	<u>106,576</u>	<u>106,576</u>	<u>52,065</u>	<u>17,889</u>	<u>69,954</u>	<u>66%</u>
	<b>CITY MANAGER</b>	<b>33,454</b>	<b>542,974</b>	<b>544,724</b>	<b>284,838</b>	<b>37,866</b>	<b>322,704</b>	<b>59%</b>
<b>RECREATION</b>								
	Recreation	28,757	455,503	463,468	236,199	10,019	246,218	53%
	Community & Cultural Center	34,241	739,223	766,023	294,364	126,493	420,857	55%
	Aquatics Center	3,163	273,890	273,890	9,008		9,008	3%
	Building Maintenance (CCC)	<u>44,322</u>	<u>416,108</u>	<u>427,967</u>	<u>287,805</u>	<u>39,006</u>	<u>326,811</u>	<u>76%</u>
	<b>RECREATION</b>	<b>110,483</b>	<b>1,884,724</b>	<b>1,931,348</b>	<b>827,376</b>	<b>175,518</b>	<b>1,002,894</b>	<b>52%</b>
<b>HUMAN RESOURCES</b>								
	Human Resources	38,478	582,687	582,687	320,966		320,966	55%
	Volunteer Programs	<u>1,753</u>	<u>34,442</u>	<u>34,442</u>	<u>13,396</u>	-	<u>13,396</u>	<u>39%</u>
	<b>HUMAN RESOURCES</b>	<b>40,231</b>	<b>617,129</b>	<b>617,129</b>	<b>334,362</b>		<b>334,362</b>	<b>54%</b>
<b>CITY CLERK</b>								
	City Clerk	18,305	302,672	303,533	136,340	861	137,201	45%
	Elections	<u>3,255</u>	<u>70,576</u>	<u>70,576</u>	<u>22,269</u>	-	<u>22,269</u>	<u>32%</u>
	<b>CITY CLERK</b>	<b>21,560</b>	<b>373,248</b>	<b>374,109</b>	<b>158,609</b>	<b>861</b>	<b>159,470</b>	<b>43%</b>
	<b>FINANCE</b>	<b>68,959</b>	<b>889,208</b>	<b>891,223</b>	<b>512,774</b>	<b>2,763</b>	<b>515,537</b>	<b>58%</b>
	<b>MEDICAL SERVICES</b>	-		<b>5,000</b>		-	-	n/a
	<b>TOTAL GENERAL GOVERNMENT</b>	<b>344,737</b>	<b>5,149,142</b>	<b>5,205,392</b>	<b>2,572,937</b>	<b>337,931</b>	<b>2,910,868</b>	<b>56%</b>
<b>II. PUBLIC SAFETY</b>								
<b>POLICE</b>								
	PD Administration	48,365	491,711	491,711	277,513	-	277,513	56%
	Patrol	221,800	3,207,070	3,274,188	1,714,519	15,017	1,729,536	53%
	Support Services	78,438	897,092	897,092	476,919	2,580	479,499	53%
	Emergency Services/Haz Mat	2,245	33,858	33,858	28,951	4,013	32,964	97%
	Special Operations	102,933	1,176,399	1,179,974	612,910	-	612,910	52%
	Animal Control	6,412	76,159	76,159	42,441	-	42,441	56%
	Dispatch Services	<u>48,635</u>	<u>858,218</u>	<u>859,318</u>	<u>430,326</u>	<u>1,100</u>	<u>431,426</u>	<u>50%</u>
	<b>POLICE</b>	<b>508,828</b>	<b>6,740,507</b>	<b>6,812,300</b>	<b>3,583,579</b>	<b>22,710</b>	<b>3,606,289</b>	<b>53%</b>
	<b>FIRE</b>	<b>312,081</b>	<b>3,745,220</b>	<b>3,745,220</b>	<b>2,184,570</b>	-	<b>2,184,570</b>	<b>58%</b>
	<b>TOTAL PUBLIC SAFETY</b>	<b>820,909</b>	<b>10,485,727</b>	<b>10,557,520</b>	<b>5,768,149</b>	<b>22,710</b>	<b>5,790,859</b>	<b>55%</b>
<b>III. COMMUNITY IMPROVEMENT</b>								
	<b>PARK MAINTENANCE</b>	<b>37,999</b>	<b>810,323</b>	<b>822,840</b>	<b>371,627</b>	<b>21,224</b>	<b>392,851</b>	<b>48%</b>
	<b>TOTAL COMMUNITY IMPROVEMENT</b>	<b>37,999</b>	<b>810,323</b>	<b>822,840</b>	<b>371,627</b>	<b>21,224</b>	<b>392,851</b>	<b>48%</b>



City of Morgan Hill  
Year to Date Expenses - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>IV. TRANSFERS</b>								
	Public Safety			834		-	-	n/a
						-	-	n/a
						-	-	<u>n/a</u>
<b>TOTAL TRANSFERS</b>		-	-	834	-	-	-	n/a
<b>TOTAL GENERAL FUND</b>		1,203,645	16,445,192	16,586,586	8,712,713	381,865	9,094,578	55%
<b>SPECIAL REVENUE FUNDS</b>								
<b>202 STREET MAINTENANCE</b>								
	Street Maintenance/Traffic	91,797	1,533,793	1,672,928	702,471	141,889	844,360	50%
	Congestion Management	3,588	78,868	78,868	36,215	-	36,215	46%
	Street CIP	<u>125,923</u>	<u>514,800</u>	<u>1,111,206</u>	<u>501,542</u>	<u>728,032</u>	<u>1,229,574</u>	<u>111%</u>
<b>202 STREET MAINTENANCE</b>		<b>221,308</b>	<b>2,127,461</b>	<b>2,863,002</b>	<b>1,240,228</b>	<b>869,921</b>	<b>2,110,149</b>	<b>74%</b>
<b>204/205 PUBLIC SAFETY/SUPP.LAW</b>		<b>22,799</b>	<b>273,582</b>	<b>273,582</b>	<b>159,590</b>		<b>159,590</b>	<b>58%</b>
<b>206 COMMUNITY DEVELOPMENT FUND</b>								
	Planning	97,442	979,437	1,136,767	643,128	166,669	809,797	71%
	Building	62,532	956,070	1,016,487	463,255	53,472	516,727	51%
	PW-Engineering	<u>67,032</u>	<u>1,029,375</u>	<u>1,072,275</u>	<u>510,586</u>	<u>119,305</u>	<u>629,891</u>	<u>59%</u>
<b>206 COMMUNITY DEVELOPMENT FUND</b>		<b>227,006</b>	<b>2,964,882</b>	<b>3,225,529</b>	<b>1,616,969</b>	<b>339,446</b>	<b>1,956,415</b>	<b>61%</b>
207	GENERAL PLAN UPDATE	33,745	71,257	197,413	46,219	93,405	139,624	71%
210	COMMUNITY CENTER	26,000	312,000	312,000	182,000	-	182,000	58%
215/216	CDBG	61,967	195,769	463,742	87,960	102,711	190,671	41%
220	MUSEUM RENTAL	137	2,422	2,422	1,131	-	1,131	47%
225	ASSET SEIZURE					-	-	n/a
226	OES/FEMA	-	-	-	-	-	-	n/a
229	LIGHTING AND LANDSCAPE	5,458	154,755	167,001	76,738	3,967	80,705	48%
232	ENVIRONMENT PROGRAMS	65,707	452,029	499,894	216,885	73,791	290,676	58%
234	MOBILE HOME PARK	138	39,661	39,661	39,963	22,705	62,668	158%
235	SENIOR HOUSING TRUST FUND		14,300	14,300	2,150	6,450	8,600	60%
236	HOUSING MITIGATION FUND	3,675	1,033,497	1,033,497	3,675	11,325	15,000	1%
240	EMPLOYEE ASSISTANCE		20,000	20,000	13,122	-	13,122	66%
<b>TOTAL SPECIAL REVENUE FUNDS</b>		<b>667,940</b>	<b>7,661,615</b>	<b>9,112,043</b>	<b>3,686,630</b>	<b>1,523,721</b>	<b>5,210,351</b>	<b>57%</b>
<b>CAPITAL PROJECT FUNDS</b>								
301	PARK DEVELOPMENT	70,212	1,570,296	2,114,454	185,239	69,277	254,516	12%
302	PARK MAINTENANCE	50,000	200,000	200,000	100,000	-	100,000	50%
303	LOCAL DRAINAGE	1,358	2,028,393	2,261,893	8,844	-	8,844	0%
304	LOCAL DRAIN. NON-AB1600	2,656	191,868	218,868	18,590	71,621	90,211	41%
305	OFF STREET PARKING	-	3,986	3,986	-	-	-	n/a
309	TRAFFIC MITIGATION	46,029	936,333	1,720,135	353,815	510,931	864,746	50%
311	POLICE MITIGATION	8,995	1,206,645	1,226,645	22,810	10,000	32,810	3%
313	FIRE MITIGATION	4,282	401,545	551,545	518,766	9,101	527,867	96%
317	RDA BUSINESS ASSISTANCE	2,501,635	27,346,151	39,964,614	18,616,004	8,461,815	27,077,819	68%
327/328	RDA HOUSING	173,556	4,592,332	8,538,767	3,856,589	79,473	3,936,062	46%
346	PUBLIC FAC.NON AB1600	371,151	9,808,000	9,808,000	390,203	1,734,941	2,125,144	22%
347	PUBLIC FACILITIES	16,009	831,229	1,780,763	134,917	836,029	970,946	55%
348	LIBRARY IMPACT	19	225	225	131	-	131	58%
350	UNDERGROUNDING	36	190,437	190,437	255	124,954	125,209	66%
<b>TOTAL CAPITAL PROJECTS FUNDS</b>		<b>3,245,938</b>	<b>49,307,440</b>	<b>68,580,332</b>	<b>24,206,163</b>	<b>11,908,142</b>	<b>36,114,305</b>	<b>53%</b>



City of Morgan Hill  
Year to Date Expenses - Fiscal Year 2003/04  
For the Month of January 2004  
58% of Year Completed

FUND NO.	FUND/ACTIVITY	THIS MONTH ACTUAL EXPENSES	ADOPTED BUDGET	AMENDED BUDGET	YTD EXPENSES	OUTSTANDING ENCUMBRANCE	TOTAL ALLOCATED	PERCENT OF TOTAL TO BUDGET
<b>DEBT SERVICE FUNDS</b>								
527	HIDDEN CREEK A.D.	-	-	-	-	-	-	n/a
536	ENCINO HILLS A.D.	-	-	-	-	-	-	n/a
539	MORGAN HILL BUS. PARK A.D.	-	-	-	-	-	-	n/a
542	SUTTER BUS. PARK A.D.	-	-	-	-	-	-	n/a
545	COCHRANE BUS. PARK A.D.	811	195,805	195,805	147,921	-	147,921	76%
551	JOLEEN WAY A.D.	782	40,540	40,540	31,843	-	31,843	79%
<b>TOTAL DEBT SERVICE FUNDS</b>		<b>1,593</b>	<b>236,345</b>	<b>236,345</b>	<b>179,764</b>	<b>-</b>	<b>179,764</b>	<b>76%</b>
<b>ENTERPRISE FUNDS</b>								
<b>SEWER</b>								
640	SEWER OPERATION	933,790	7,418,125	7,513,797	4,859,707	89,255	4,948,962	66%
641	CAPITAL EXPANSION	4,290	3,576,249	3,697,697	269,720	36,790	306,510	8%
642	SEWER RATE STABILIZATION	197	2,369	2,369	1,382	-	1,382	58%
643	SEWER-CAPITAL PROJECTS	87,616	437,843	1,616,022	435,058	434,506	869,564	54%
<b>TOTAL SEWER FUND(S)</b>		<b>1,025,893</b>	<b>11,434,586</b>	<b>12,829,885</b>	<b>5,565,867</b>	<b>560,551</b>	<b>6,126,418</b>	<b>48%</b>
<b>WATER</b>								
	Water Operations Division	320,928	6,213,247	6,788,997	3,545,202	395,267	3,940,469	58%
	Meter Reading/Repair	29,473	637,156	669,538	243,813	232,621	476,434	71%
	Utility Billing	23,515	391,570	394,863	203,106	15,651	218,757	55%
	Water Conservation	102	8,213	8,213	715	-	715	9%
650	WATER OPERATIONS	374,018	7,250,186	7,861,611	3,992,836	643,539	4,636,375	59%
651	CAPITAL EXPANSION	307,277	1,546,253	2,652,299	710,788	412,351	1,123,139	42%
652	WATER RATE STABILIZATION	70,879	850,551	850,551	496,155	-	496,155	58%
653	WATER-CAPITAL PROJECTS	192,632	2,158,239	2,951,478	668,075	776,513	1,444,588	49%
<b>TOTAL WATER FUND(S)</b>		<b>944,806</b>	<b>11,805,229</b>	<b>14,315,939</b>	<b>5,867,854</b>	<b>1,832,403</b>	<b>7,700,257</b>	<b>54%</b>
<b>TOTAL ENTERPRISE FUNDS</b>		<b>1,970,699</b>	<b>23,239,815</b>	<b>27,145,824</b>	<b>11,433,721</b>	<b>2,392,954</b>	<b>13,826,675</b>	<b>51%</b>
<b>INTERNAL SERVICE FUNDS</b>								
730	INFORMATION SERVICES	34,284	245,262	262,996	123,635	94,299	217,934	83%
740	BUILDING MAINTENANCE	47,224	642,029	665,031	231,601	26,504	258,105	39%
745	CIP ENGINEERING	97,753	1,447,120	1,552,806	738,149	107,255	845,404	54%
760	UNEMPLOYMENT	-	30,000	30,000	15,990	-	15,990	53%
770	WORKERS COMPENSATION	47,894	697,200	736,200	456,753	32,149	488,902	66%
790	EQUIPMENT REPLACEMENT	147	251,761	260,878	43,025	-	43,025	16%
793	CORP YARD COMMISSION	4,930	160,005	170,920	59,454	3,834	63,288	37%
795	GEN. LIABILITY INSURANCE	45,722	371,600	371,600	320,299	-	320,299	86%
<b>TOTAL INTERNAL SERVICE FUNDS</b>		<b>277,954</b>	<b>3,844,977</b>	<b>4,050,431</b>	<b>1,988,906</b>	<b>264,041</b>	<b>2,252,947</b>	<b>56%</b>
<b>AGENCY FUNDS</b>								
841	MORGAN HILL BUS RANCH I	946	723,706	723,706	986,948	-	986,948	136%
842	MORGAN HILL BUS RANCH II	938	38,838	38,838	41,512	-	41,512	107%
843	MORGAN HILL BUS RANCH 98	1,000	871,086	871,086	584,699	-	584,699	67%
845	MADRONE BP-TAX EXEMPT	1,211	799,731	799,731	508,688	-	508,688	64%
846	MADRONE BP-TAXABLE	721	172,343	172,343	97,961	-	97,961	57%
848	TENNANT AVE BUS PARK AD	-	-	-	-	-	-	n/a
881	POLICE DONATION TRUST	-	-	-	-	-	-	n/a
<b>TOTAL AGENCY FUNDS</b>		<b>4,816</b>	<b>2,605,704</b>	<b>2,605,704</b>	<b>2,219,808</b>	<b>-</b>	<b>2,219,808</b>	<b>85%</b>
<b>REPORT TOTAL</b>		<b>7,372,585</b>	<b>103,341,088</b>	<b>128,317,265</b>	<b>52,427,705</b>	<b>16,470,723</b>	<b>68,898,428</b>	<b>54%</b>



YTD INCOME STATEMENT FOR CURRENT AND PRIOR YEAR

	Sewer Operations				Water Operations			
	Budget	YTD	% of Budget	Prior YTD	Budget	YTD	% of Budget	Prior YTD
<b>Operations</b>								
<b>Revenues</b>								
Service Charges	\$ 5,321,460	\$ 3,096,672	58%	\$ 2,945,666	\$ 5,738,350	\$ 4,238,506	74%	\$ 3,901,724
Meter Install & Service					40,000	24,961	62%	31,958
Other	113,950	103,560	91%	97,642	249,584	196,775	79%	222,290
<b>Total Operating Revenues</b>	<b>5,435,410</b>	<b>3,200,232</b>	<b>59%</b>	<b>3,043,308</b>	<b>6,027,934</b>	<b>4,460,242</b>	<b>74%</b>	<b>4,155,972</b>
<b>Expenses</b>								
Operations	4,533,215	2,534,246	56%	2,085,668	4,750,307	2,955,850	62%	2,424,817
Meter Reading/Repair					637,156	243,813	38%	353,441
Utility Billing/Water Conservation					399,783	203,821	51%	188,593
<b>Total Operating Expenses</b>	<b>4,533,215</b>	<b>2,534,246</b>	<b>56%</b>	<b>2,085,668</b>	<b>5,787,246</b>	<b>3,403,484</b>	<b>59%</b>	<b>2,966,851</b>
<b>Operating Income (Loss)</b>	<b>902,195</b>	<b>665,986</b>		<b>957,640</b>	<b>240,688</b>	<b>1,056,758</b>		<b>1,189,121</b>
<b>Nonoperating revenue (expense)</b>								
Interest Income	51,960	32,375	62%	73,207		28,249		66,949
Interest Expense/Debt Services	(856,625)	(719,378)	84%	(667,145)	(316,806)	(158,960)	50%	(164,273)
Principal Expense/Debt Services	(1,115,000)	(1,115,000)	100%	(635,000)	(228,634)	(31,260)	14%	(29,147)
<b>Total Nonoperating revenue (expense)</b>	<b>(1,919,665)</b>	<b>(1,802,003)</b>		<b>(1,228,938)</b>	<b>(545,440)</b>	<b>(161,971)</b>		<b>(126,471)</b>
Income before operating xfers	(1,017,470)	(1,136,017)		(271,298)	(304,752)	894,787		1,062,650
Operating transfers in	-	-		-	1,045,785	610,041	58%	101,428
Operating transfers (out)	(913,285)	(491,083)	54%	(478,303)	(917,500)	(399,132)	44%	(1,073,542)
<b>Net Income (Loss)</b>	<b>\$ (1,930,755)</b>	<b>\$ (1,627,100)</b>		<b>\$ (749,601)</b>	<b>\$ (176,467)</b>	<b>\$ 1,105,696</b>		<b>\$ 90,536</b>



**City of Morgan Hill**  
**Balance Sheets - Water and Sewer Funds**  
**January 31, 2004**  
**58% of Year Complete**

	<b>Sewer Operations (640)</b>	<b>Sewer Expansion Stabilization Capital Projects (641-643)</b>	<b>Water Operations (650)</b>	<b>Water Expansion Stabilization Capital Projects (651-653)</b>
<b>ASSETS</b>				
<b>Cash and investments:</b>				
<b>Unrestricted</b>	2,945,507	6,659,483	2,923,202	4,124,998
<b>Restricted <sup>1</sup></b>	1,849,410	5,851,364	390,251	(31,291)
<b>Accounts Receivable</b>		7,028		
<b>Utility Receivables</b>	765,850		860,375	
<b>Less Allowance for Doubtful Accounts</b>	(2,633)		(2,751)	
<b>Notes Receivable <sup>2</sup></b>				
<b>Fixed Assets <sup>3</sup></b>	31,802,421	9,911,459	23,624,143	8,620,811
<b>Total Assets</b>	<u>37,360,555</u>	<u>22,429,334</u>	<u>27,795,220</u>	<u>12,714,518</u>
<b>LIABILITIES</b>				
<b>Accounts Payable and Accrued Liabilities</b>	256,723	128,212	60,491	
<b>Deposits for Water Services &amp; Other Deposits</b>			35,409	
<b>Deferred Revenue <sup>4</sup></b>				
<b>Bonds Payable</b>	25,390,000		5,985,863	
<b>Discount on Bonds and Other Liabilities</b>	(2,705,125)		(957,773)	
<b>Accrued Vacation and Comp Time</b>	41,966		88,957	
<b>Total liabilities</b>	<u>22,983,564</u>	<u>128,212</u>	<u>5,212,947</u>	<u>0</u>
<b>FUND EQUITY</b>				
<b>Contributed Capital</b>	6,686,483		13,047,150	
<b>Retained Earnings</b>				
<b>Reserved for:</b>				
<b>Noncurrent water/sewer assets &amp; debt</b>	9,075,580	9,911,459	18,507,096	8,620,811
<b>Encumbrances</b>	89,255	471,296	643,539	1,188,864
<b>Notes Receivable</b>		0		
<b>Restricted Cash</b>	1,849,410		390,251	
<b>Total Reserved Retained Earnings</b>	11,014,245	10,382,755	19,540,886	9,809,675
<b>Unreserved Retained Earnings</b>	3,362,746	11,918,367	3,041,387	2,904,843
<b>Total Fund Equity</b>	<u>14,376,991</u>	<u>22,301,122</u>	<u>22,582,273</u>	<u>12,714,518</u>
<b>Total Liabilities and Fund Equity</b>	<u>37,360,555</u>	<u>22,429,334</u>	<u>27,795,220</u>	<u>12,714,518</u>

<sup>1</sup> Restricted for Bond Reserve requirements and capital expansion.

<sup>2</sup> Includes Note for Sewer Financing Agreements.

<sup>3</sup> Includes Water and Sewer infrastructure and the City's share of the Wastewater treatment plant.

<sup>4</sup> Includes the deferred payment portion of the loans noted above.



**City of Morgan Hill**  
**Balance Sheets for Major Funds - Fiscal Year 2003/04**  
**January 31, 2004**  
**58% of Year Complete**

**ASSETS**

**Cash and investments:**

Unrestricted

Restricted <sup>1</sup>

Accounts Receivable

Utility Receivables (Sewer and Water)

Less Allowance for Doubtful Accounts

Loans and Notes Receivable <sup>2</sup>

Prepaid Expense

Fixed Assets <sup>3</sup>

**Total Assets**

**LIABILITIES**

Accounts Payable and Accrued Liabilities

Deposits for Water Services & Other Deposits

Deferred Revenue <sup>4</sup>

Bonds Payable

Discount on Bonds and Other Liabilities

Accrued Vacation and Comp Time

**Total liabilities**

**FUND EQUITY**

Contributed Capital

Fund Balance / Retained Earnings

Reserved for:

Noncurrent water/sewer assets & debt

Encumbrances

Restricted Cash

RDA properties held for resale

Loans and Notes Receivable

**Total Reserved Fund Equity**

**Designated Fund Equity <sup>5</sup>**

**Unreserved/Undesignated Fund Equity**

**Total Fund Equity**

**Total Liabilities and Fund Equity**

General Fund (Fund 010)	RDA (Fund 317)	L/M Housing (Fund 327/328)	Sewer (Fund 640)	Water (Fund 650)
10,871,311	8,916,570	4,674,187	2,945,507	2,923,202
4,150			1,849,410	390,251
950,618	3,200	7,806		
			765,850	860,375
			(2,633)	(2,751)
446,474	3,343,914	24,270,764		
	71,049		31,802,421	23,624,143
12,272,553	12,334,733	28,952,757	37,360,555	27,795,220
404,709	20,180	13,354	256,723	60,491
33,046				35,409
830,988	1,143,834	6,286,255		
			25,390,000	5,985,863
141,201			(2,705,125)	(957,773)
			41,966	88,957
1,409,944	1,164,014	6,299,609	22,983,564	5,212,947
			6,686,483	13,047,150
			9,075,580	18,507,096
381,865	8,461,815	79,473	89,255	643,539
	71,049		1,849,410	390,251
	2,200,080	17,984,510		
381,865	10,732,944	18,063,983	11,014,245	19,540,886
7,300,000				
3,180,744	437,775	4,589,165	3,362,746	3,041,387
10,862,609	11,170,719	22,653,148	14,376,991	22,582,273
12,272,553	12,334,733	28,952,757	37,360,555	27,795,220

<sup>1</sup> Restricted for Petty Cash use, Bond Reserve requirements and sewer and water capital expansion.

<sup>2</sup> Includes Housing Rehab loans, Financing Agreements for Public Works Fees and loans for several housing and Agency projects.

<sup>3</sup> Includes Water and Sewer infrastructure, the City's share of the Wastewater treatment plant and RDA properties held for resale.

<sup>4</sup> Includes the deferred payment portion of the loans noted above.

<sup>5</sup> Designated for economic uncertainty, emergencies, and Fire Master Plan implementation





**City of Morgan Hill**  
**Community Development Report - Fiscal Year 2003/04**  
**For the Month of January 2004**  
**58% of Year Completed**

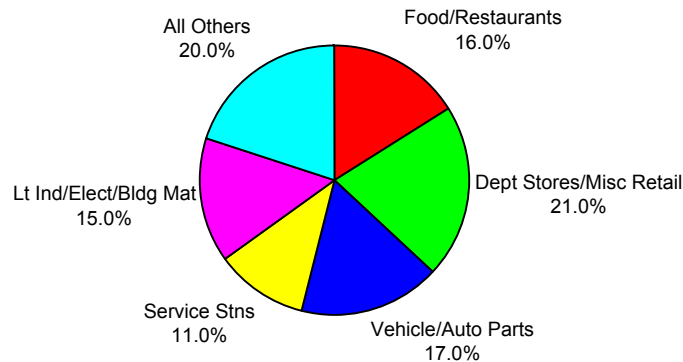
	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>	<u>Budget</u>	<u>Actual</u>	<u>% of Budget</u>
Revenues	1,113,754	<u>1,217,111</u>	109%	629,750	<u>286,332</u>	45%	532,855	<u>173,623</u>	33%
Expenses	1,016,487	463,255		1,136,767	643,128		1,072,275	510,586	
Encumbrances		<u>53,472</u>			<u>166,669</u>			<u>119,305</u>	
Sub-total		<u>516,727</u>	51%		<u>809,797</u>	71%		<u>629,891</u>	59%
<b>Excess/(Deficit)</b>	<b>97,267</b>	<b>700,384</b>		<b>(507,017)</b>	<b>(523,465)</b>		<b>(539,420)</b>	<b>(456,268)</b>	



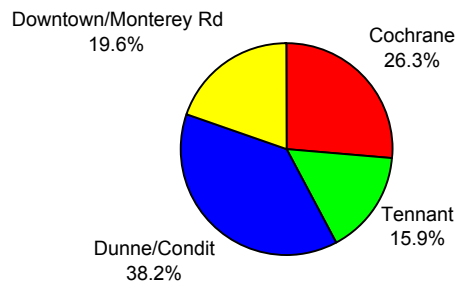
**City of Morgan Hill**  
**Sales Tax Comparison - Fiscal Year 2003/04**  
**For the Month of January 2004**  
**58% of Year Complete**

Month	Amount Collected for Month for Fiscal Year			Amount Collected YTD for Fiscal Year			Comparison of YTD for fiscal years	
	03/04	02/03	01/02	03/04	02/03	01/02	03/04 to 02/03	03/04 to 01/02
July	\$338,300	\$367,600	\$377,700	\$338,300	\$367,600	\$377,700	(29,300)	(39,400)
August	\$451,000	\$447,000	\$503,600	\$789,300	\$814,600	\$881,300	(25,300)	(92,000)
September	\$232,994	\$361,932	\$437,056	\$1,022,294	\$1,176,532	\$1,318,356	(154,238)	(296,062)
October	\$316,100	\$354,915	\$339,000	\$1,338,394	\$1,531,447	\$1,657,356	(193,053)	(318,962)
November	\$421,400	\$474,800	\$452,000	\$1,759,794	\$2,006,247	\$2,109,356	(246,453)	(349,562)
December	\$331,624	\$384,154	\$538,465	\$2,091,418	\$2,390,401	\$2,647,821	(298,983)	(556,403)
January	\$349,500	\$368,600	\$393,900	\$2,440,918	\$2,759,001	\$3,041,721	(318,083)	(600,803)
February		\$487,195	\$466,068		\$3,246,196	\$3,507,789		
March		\$225,908	\$351,548		\$3,472,104	\$3,859,337		
April		\$292,698	\$341,042		\$3,764,802	\$4,200,379		
May		\$394,500	\$461,500		\$4,159,302	\$4,661,879		
June		\$477,624	\$208,416		\$4,636,926	\$4,870,295		
<b>Year To Date Totals</b>				<b>\$2,440,918</b>	<b>\$4,636,926</b>	<b>\$4,870,295</b>		
Sales Tax Budget for Year				\$4,650,000	\$5,330,000	\$5,300,000		
<b>Percent of Budget</b>				<b>52%</b>	<b>87%</b>	<b>92%</b>	<b>-12%</b>	<b>-20%</b>
<b>Percent of increase(decrease)</b>								

**Sales Tax Distribution  
by Business Segment  
Second Quarter 2003**



**Sales Distribution  
by Area  
Second Quarter 2003**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: FEBRUARY 18, 2004***

**TITLE: PERFORMANCE MEASURE UPDATE –  
SECOND QUARTER FY 2003/04**

**RECOMMENDED ACTION:**  
**Receive and file**

### **EXECUTIVE SUMMARY:**

With the inclusion of performance measures into the document, the City's adopted FY 2003/04 Operating and Capital Budget has received the prestigious Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award.

The City started implementing performance measures in the FY 2002/03 Operating and Capital Budget, and on a quarterly basis, staff has been presenting Performance Measure Updates to the City Council. Attachment A is the update for the second quarter of FY 2003/04.

### **FISCAL IMPACT:**

None.

Agenda Item #

Prepared By:

Budget Manager

Approved By:

Finance Director

Submitted By:

City Manager

12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
--	---------------------------	-------------------------------------	-------------------------------------	----------------------------------

[010-1100] CITY COUNCIL				Responsibility: City Clerk's Office
Council/Redevelopment Agency Meeting Minutes produced	86	12	14	
Time required to draft, proof and edit minutes for every 4 hours of meeting time	1.5 hours	1.5 hours	1.5 hours	
Total time to produce minutes	425 hours	67 hours	68 hours	
Percentage of Minutes completed without errors of fact	98%	100%	100%	
Completing Minutes within 2 weeks	100%	100%	100%	

[010-1220] COMMUNITY PROMOTIONS				Responsibility: City Clerk's Office
Proclamations Produced	190	15	10	
Staff time to coordinate/draft requests for proclamations for Council members, staff and outside requests	1.5 hours	1.5 hours	1.5 hours	
Hours to produce all proclamations	285 hours	22.5 hours	15 hours	
Percentage of Proclamations completed for a particular meeting date, as requested	100%	100%	100%	

010-2410] COUNCIL SERVICES & RECORDS MANAGEMENT				Responsibility: City Clerk's Office
Number of requests for public records	895	165	356	
Amount of time to research/copy request for public records	86.7% 11.8% 1.5%	87.3% 10.9% 1.8%	85.1% 13.2% 1.7%	

[010-2420] ELECTIONS DIVISION				Responsibility: City Clerk's Office
Number of Statement of Economic Interests filed	3 (105)	3 (105)	8 (137 total)	Statement of Economic Interests are not due until 4/1/04. The 8 identified during this reporting period reflect assuming and leaving office statements of designated filers.
Percentage filed by deadline	100%	100%	5%	
Percentage filed late	0%	0%	0%	

[010-1500] CITY ATTORNEY				Responsibility: City Attorney's Office
Standard contracts reviewed within ten days	100%		100%	
Amended Municipal Chapter Codes adopted by the City	4		3	

<b>12/31/03 Update</b>				
Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
Hours of MCLE	26		17	
Closure of more than 50% of defense cases under \$75,000 in legal fees	100%		100%	

<b>[010-2100] CITY MANAGER</b>				Responsibility: City Manager's Office
Percentage of workplan projects, City-wide, that are completed within the planned time frame	35%	79%	60%	
Actual General Fund expenditures as a percentage of the current General Fund budget	93%	23%	45%	
City General Fund reserves as a proportion of current General Fund revenue projections	64%	66%	68%	

<b>[010-5140] CABLE TELEVISION</b>				Responsibility: City Manager's Office
Number of cable complaints received	12	6	9	
Number of cable complaint processes completed	12	6	9	
Average number of days taken to completely process each cable complaint	10.67	2.67	2.11	

<b>[010-5145] COMMUNICATIONS AND MARKETING</b>				Responsibility: City Manager's Office
Pages of City Visions produced	72	16	32	
Dollars (not inclusive of staffing) spent on producing City Visions.	\$57,364	\$13,336	\$25,414	
Dollars per page of City Visions produced and distributed.	\$797	\$834	\$794	

<b>[232-5800] SOLID WASTE MANAGEMENT DIVISION</b>				Responsibility: City Manager's Office
Dollars spent communicating recycling information (excluding employee services)	\$87,044	\$21,642	\$53,668	
Tons of recycling collected	8,992	2,374	4,757	
Number of environmental promotions distributed	10	7	9	
Percentage of customers ranking their solid waste management services "good" or "excellent"	N/A	N/A	N/A	Biennial Measure
Percentage of customers who say they have enough information to properly participate in the City's recycling program	N/A	N/A	N/A	Biennial Measure
Percentage of customers participating in the recycling program	63%	65%	63%	

<b>12/31/03 Update</b>	<b>Actual Result for 2002-03</b>	<b>Status of measure as of 09/30/03</b>	<b>Status of measure as of 12/31/03</b>	<b>Explanatory Comments (as needed)</b>
<b>Performance Measure</b>				
Solid waste diversion rate	47%	N/A	50%	Yahoo!!
Dollars spent communicating recycling information per ton of recycling collected	\$9.68/ton	\$9.12/ton	\$11.28/ton	

<b>[010-2110] RECREATION DIVISION</b>		<b>Responsibility: Recreation and Community Services Division</b>		
Overall cost of staff time to develop Recreation Guide, recruit instructors, negotiate contracts	\$37,921	\$10,640	\$11,170	
Overall cost produce and advertise recreation classes	\$9,064	\$4,445	\$5,239	
Number of participants	2,171	1,816	2,328	
Cost per participant to produce Recreation Guide	\$4.17	\$2.44	\$2.25	
Percent cost recovery for Recreation Division	5.2%	9.8%	17%	

<b>[010-2115] COMMUNITY AND CULTURAL CENTER</b>		<b>Responsibility: Recreation and Community Services Division</b>		
Facility rentals	117	120	143	

<b>[010-2200] HUMAN RESOURCES OFFICE</b>		<b>Responsibility: Human Resources Department</b>		
Cost of providing 24 hours of enhanced training (beyond legal requirements) to each employee per year (est. \$250 per employee)	\$37,307	\$14,348	\$24,348	
Number of recruitment processes which include selection criteria such as: flexibility, change management, attitude to work, fit for the organization, etc., in addition to the task requirements of the position	4 of 4	2 of 2	5 of 5	
Number of employees recognized for exemplary customer service, new ways of accomplishing work, successful cost reducing ideas, years of service	125	0	30	
Number of HR staff hours spent in training, communicating and consulting to the number of HR staff hours spent recruiting to fill vacant positions.	3.5 to 4	3.5 to 4	3.5 to 4	
Average cost to recruit and hire a new employee	\$2,500	\$2,850	\$2,100	
Percent of increase in customer satisfaction based on employee opinion survey follow-up	N/A	N/A	N/A	

12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
<b>[010-2210] VOLUNTEER SERVICES PROGRAM</b> Responsibility: Human Resources Department				
Number of external requests for municipal volunteer opportunities to number of actual placements	50 to 18	30 to 6	57 to 11	
Number of internal requests for volunteers to number of actual placements.	12 to 11	3 to 2	0 to 1	
<b>[770-8220] WORKERS COMPENSATION INSURANCE</b> Responsibility: Human Resources Department				
Number of workers' compensation claims involving temporary disability benefits	9	2	4	
Number of lost work days caused by temporary disability	739	250	5300	
Average length of time to bring an injured employee off temporary disability	74	36	116	
<b>[010-2510] FINANCE</b> Responsibility: Finance Department				
Staff hours designated for Accounts Payable	2,000 hours	390	705	
Invoices processed	13,871	3,602	6,780	
% of invoices paid by due date	86%	84%	85%	
Average time to process an invoice	8.66 minutes	6.5 minutes	6.2 minutes	
<b>[650-5750] UTILITY BILLING - SEWER &amp; WATER</b> Responsibility: Finance Department				
Staff hours designated to Utility Billing	4,168	975	1,850	
Bills processed per year	134,270	33,932	68,174	
Percent sent out error free	96.9%	99.98%	99.99%	
Average time to process a bill	1.87 minutes	1.72 minutes	1.63 minutes	
<b>[795-8210] GENERAL LIABILITY INSURANCE</b> Responsibility: Finance Department				
Percent of claims responded to within the statutory time frame of 45 days, either through a rejection of the claim or through a proposed resolution.	78%	100%	100%	
<b>[010-3205] POLICE ADMINISTRATION</b> Responsibility: Police Department				
Number of citizens' complaints regarding police services to the number of hours spent processing complaints.	100.85 hours (31 complaints)	3 Complaints/8.5 Hours	3 Complaints/18 Hours	

12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
Percent of formal citizens' complaints resolved within 45 days of receipt.	50%	50%	100%	
Percentage of sworn personnel who receive 24 hours of Continued Proficiency Training	42%	27%	58%	
Deficiencies reported in the annual POST audit	0	No audit this quarter	No audit this quarter	

[010-3210] POLICE FIELD OPERATIONS				Responsibility: Police Department
Number of self initiated contacts compared to the number of calls for service.	SI - 15,363 CFS - 25,668	SI - 3,363 CFS - 4,969	SI - 7,651 CFS - 8,934	
Percent of clearance in Part I and Part II crime rates in Morgan Hill compared to the national rate	MH 13% National 21%	MH % National 21%	MH 10% National 21%	
Percent of Priority I calls responded to within 5 minutes of receipt	100%	100%	100%	
CFS prior to and after implementation of POP project	N/A	25 prior/19 after	25 prior/42 after	

[010-3225] POLICE SUPPORT SERVICES				Responsibility: Police Department
Number of hours per week dedicated to the property/evidence function	35 hours/week	35 hours/week	35 hours/week	
Percent of property/evidence released or purged within 30 days of clearance	100%	100%	90%	
Percent of arrests entered into CJIC within 48 business hours of arrest date	100%	100%	100%	
Number of incident reports stored electronically	5,184	1,232	2,453	

[010-3230] EMERGENCY SERVICES UNIT				Responsibility: Police Department
Number of preparedness presentation hours given to the community	176 hours	10 hours	20 hours	
Number of organized CERT teams capable of operating within the City	6 teams of 15-25 members	6 teams of 15-25 members	6 teams of 15-25 members	
Number of emergency drills/exercises	3	0	1	
Number of sections of the disaster plan updated annually	2 new additions	0 sections	New plan pending	

[010-3245] POLICE SPECIAL OPERATIONS				Responsibility: Police Department
Number of investigations assigned to Special Operations	190	57	83	



12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
Number of incidents investigated by division personnel submitted to the D.A.'s Office requesting the issuance of a criminal complaint	75	14	29	
Number of Neighborhood Watch Programs presented to the community	N/A	8	20	

[010-5450] ANIMAL CONTROL SERVICES UNIT				Responsibility: Police Department
Number of hours per week spent enforcing animal license provisions of State law and local ordinance.	8 hours/day	40 hours/week	40 hours/week	
Number of animal licenses issued to Morgan Hill residents	1,128	221	410	
Number of Morgan Hill impounded animals returned to their owners within 4 days	32	17	20	
Number of unlicensed dogs impounded or owners cited compared to the number of licensed dogs	135 1,123	55 unl.imp./221 lic. 7 cites	68 unl.imp./330 lic. 11 cites	
Percent of unaltered to altered Morgan Hill animals receiving licenses	135 1,123	24% 43/178	24% 80/330	

[010-8270] POLICE DISPATCH SERVICES				Responsibility: Police Department
Count the Number of 911 calls received	6,500	1,756	2,994	
Average time to answer 98% of 911 phone calls	11 seconds (30% less than 5 seconds)	11 seconds (28% less than 5 seconds)	11 seconds (29% less than 5 seconds)	
Average time between receipt of a Priority I call and dispatch of a unit.	1:62	2:28	2:22	

[206-5120] PLANNING				Responsibility: Community Development Department
Number and percent of SR Applications processed within 90 days (excluding CEQA projects requiring initial study or EIR)	32 applications: 9 incomplete, 18 completed within 90 days of application, 5 went before ARB within 90 days of app. = 100%	6 applications: 1 approved within 90 days; 4 set for ARB meeting (future) within 90 days; 1 incomplete – 100%	10 applications: 2 approved within 90 days; 4 set for ARB meeting (future) within 90 days; 3 cannot go before ARB until CC & PC approves related projects; 1 incomplete – 100%	
Number of applications filed which require Architecture Review Board, Planning Commission or City Council approval	219	41	109	
Percent of RDCS Projects provided 30-day notice of default or expiration of allotment	99%	100%	100%	

<b>12/31/03 Update</b>	<b>Actual Result for 2002-03</b>	<b>Status of measure as of 09/30/03</b>	<b>Status of measure as of 12/31/03</b>	<b>Explanatory Comments (as needed)</b>
<b>Performance Measure</b>				
Number of applications (which require ARB, PC or CC approval) processed per planner	Senior – 65 Assoc – 56 Asst – 44 Staff – 54	Senior – 7 Assoc – 28 Staff – 6	Senior – 15 Assoc – 70 Staff – 24	
Percent of DRC comments received on time	85%	80%	80%	

<b>[206-5130] BUILDING DIVISION</b>			<b>Responsibility: Community Development Department</b>	
Percentage of inspections accomplished within a 24 hour response timeline	100%	98.5%	98.5%	
Number of complaints and cases processed	210	125	368	
Number of Code Enforcement cases investigated or mitigated	188	104	341	
Percent of Code Enforcement cases completed and closed	91%	83 %	92%	

<b>[010-5440] PUBLIC WORKS PARK MAINTENANCE</b>			<b>Responsibility: Public Works Department</b>	
Average Customer Work Order Response Time Non-Emergency Emergency	2 Days, 14 Hours 0	1 Day, 15 Hours 0	1 Day, 3 Hours 0	
Annual Maintenance Cost	\$14,136/acre	Result Recorded Annually	Result Recorded Annually	

<b>[202-6100] PUBLIC WORKS STREET MAINTENANCE</b>			<b>Responsibility: Public Works Department</b>	
Average Customer Work Order Response Time Non-Emergency Emergency	4 Days 1.5 Hours	1 Day, 7 Hours 0	2 Days, 15 Hours 10 Minutes	
Vegetation Abatement Program	N/A	0%	0%	Program is done in Spring
Storm Drain System Facilities	N/A	80%	100%	
Repair Maintenance Related Permanent Asphalt	N/A	70 Tons	95 Tons	
Curb Miles of Roadside Weed Abatement	27.27 Curb Miles	N/A	N/A	Discontinued for FY03/04
Tons of Debris Removed by Street Sweeping	423 Tons	N/A	N/A	Discontinued for FY03/04

<b>[206-5410] PUBLIC WORKS ENGINEERING</b>			<b>Responsibility: Public Works Department</b>	
Number of Final Maps Recorded	16	1	2	
Number of Plan Checks returned on time	145 out of 166	42 out of 47	82 out of 92	
Number of Planning/Building Division referrals received	127	38	68	
Hours spent inspecting public improvements constructed by private developers	2,170	339	413	

12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
--	---------------------------	-------------------------------------	-------------------------------------	----------------------------------

[640-5900] PUBLIC WORKS SEWER OPERATIONS				Responsibility: Public Works Department
Average Customer Work Order Response Time Non-Emergency Emergency	20 Hours 12 Minutes	4.5 Hours 25 Minutes	1 Days, 15 Hours 25 Minutes	
Sewer Main Restrictions Cleared	29	Discontinued	Discontinued	
LF Sewer Main Flushed/Restrictions Cleared	0	164,068/ 5	375,133/14	

[650-5710] PUBLIC WORKS WATER OPERATIONS				Responsibility: Public Works Department
Average Customer Work Order Response Time Non-Emergency Emergency	21 Hours 22 Minutes	13 Hours 1.75 Hours	20 Hours 35 Minutes	

[650-5720] PUBLIC WORKS METER READING				Responsibility: Public Works Department
Average Customer Work Order Response Time Non-Emergency Emergency	18 Hours 14 Minutes	22 Hours 0	20 Hours 0	
Fire Hydrant Maintenance Performed	414	16	16	Maintenance is typically done winter/spring
Water Meter Tested - 2" or Greater	20	0	0	Meters are tested April, 2004
Annual Cost to Read a Meter	\$0.59 per meter	Result Recorded Annually	Result Recorded Annually	

[650-5760] WATER CONSERVATION				Responsibility: Public Works Department
Cooperative efforts with Santa Clara Valley Water District to reduce water consumption	3	Result Recorded Annually	Result Recorded Annually	

[745-8280] PUBLIC WORKS CIP ADMINISTRATION				Responsibility: Public Works Department
Number of Engineering Division hours worked on all CIP Projects	10,879	2,673	4,622	
Number of CIP projects awarded	17	7	10	
Percentage of CIP projects completed within Council approved contingency	90%	100%	100%	
Hours spent inspecting public improvements constructed as CIP projects	3,303	652	1,219	

[317-7000] BUSINESS ASSISTANCE – ADMINISTRATION				Responsibility: Business Assistance and Housing Services Department
Value of building permits pulled for commercial tenant improvements	\$11.1 million	\$7,887,057	\$10,671,057	

12/31/03 Update Performance Measure	Actual Result for 2002-03	Status of measure as of 09/30/03	Status of measure as of 12/31/03	Explanatory Comments (as needed)
Square footage in building permits pulled for new commercial/industrial space	227,381	109,624	135,500	
Amount of sales or property tax generated from new businesses	\$92,700	\$78,871	83,033	
Number of new businesses generating sales tax revenue	209	5	7	

[327-7100] HOUSING		Responsibility: Business Assistance and Housing Services Department		
Number of Refinance application requests	110	29	42	
Number of BMR Refinance, Rental and Homeownership application requests	358	48	78	
Number of Refinancing requests approved	291	13	21	
Number of BMR rental and Homeownership applications approved		32	54	
Number of BMR Rental and BMR units sold	22	23	29	
Number of Refinance, BMR Rental and Homeownership applications received per F.T.E. staffing for the program	250/FTE	47/FTE	97.5/FTE	
Amount of square footage of commercial/industrial buildings developed by businesses receiving ombudsman assistance	N/A	80,627	147,552	
Number of jobs created/retained by businesses receiving ombudsman assistance	N/A	484	484	
Number of marketing packets distributed to prospective businesses	N/A	65	95	



**CITY COUNCIL STAFF REPORT**  
**MEETING DATE: February 18, 2004**

Agenda Item # 4

Prepared By: \_\_\_\_\_

Asst. to the City Mgr. \_\_\_\_\_

Submitted By: \_\_\_\_\_

City Manager \_\_\_\_\_

**STATUS OF GOALS ADOPTED BY THE CITY COUNCIL  
ON FEBRUARY 26, 2003**

**RECOMMENDED ACTION**

**1. Accept report** on the status of goals adopted by the City Council on February 26, 2003.

**EXECUTIVE SUMMARY:**

The City Council adopted the attached 29 goals on February 26, 2003 to guide their work for 2003. This is a final report on the status of those goals.

Of the 29 goals adopted, 20 have been completed. Four of the goals will be completed in 2004, four are "on-going" goals that do not have a completion date, and one goal is not expected to be completed.

The remaining goals to be completed in 2004 are:

- Consider City staff evaluation of interim flood control measures and financing plan.
- Conduct an Urban Limit Line/Greenbelt Study in conjunction with the County and the City of San Jose.
- Adoption of the Downtown Master Plan
- Development of a library plan by June 2004.

On-going goals, for which completion dates have not been established, are:

- Finance Committee to review revenue enhancement options for Council consideration
- Aggressive pursuit of full funding for the PL 566 project
- Continue to monitor opportunities for a future community-wide visioning process
- Continue to monitor opportunities for submitting a future application to the All America Cities competition

The Council had wanted the Morgan Hill Community Foundation to report on its progress in establishing non-governmental programs for the arts. This has not occurred and is not expected to occur.

**FISCAL IMPACT:**

No budget adjustment required at this time.

**2003 CITY COUNCIL GOALS – ADOPTED FEBRUARY 26, 2003***Status as of February 10, 2004***1. Goals for Budget and Fiscal Policy**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Conduct a workshop on February 5, 2003 and establish a budget policy to guide the preparation of the FY 04 Budget.	Complete.	Council held three workshops and provided guidelines for preparation of the FY 2003/04 budget and five-year financial strategy.
b. Legislative Committee to review State Budget proposals and recommend a legislative strategy.	Complete.	The Legislative Committee followed the development of the State's budget, directed staff to send strategic communications, and continues to monitor the State's fiscal situation as it unfolds.
c. Finance Committee to review other cities' reserve policies and report to the Council.	Complete.	The Council confirmed its reserves policy with an amendment to pay for the first year's Aquatics Center start up costs (about \$200,000) out of the previously designated reserves.
d. Finance Committee to review revenue enhancement options for Council consideration.	Ongoing.	The Finance and Audit Committee is continuing to analyze new sources of revenue in accordance with the Council's goals for 2004.

**2. Goals for Redevelopment**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. By February 2003, conduct a workshop to review the existing allocation of \$147 million and create a dynamic process to prioritize projects.	Complete.	Council conducted the RDA allocation workshop and established revised allocations.
b. By May 2003, consider PRC recommendations for allocations among recreation facilities, determine final allocations, and adopt a policy for making changes to priorities.	Complete.	Council adopted PRC recommendations. Council reviewed the recommendations in November, following the Library Grant decision.

**3. Goals for Medical Services**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Pursue the adopted Medical Services Objectives through the work of the Morgan Hill Community Health Foundation.	Complete.	Councilmembers have continued to serve on the Community Health Foundation Board.
b. By May 2003, review the Medical Services Objectives for possible updating.	Complete.	The Council will review the objectives on 2/18/04.

**4. Public Safety**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. By June 2003, consider a strategy for providing fire services beyond the termination of the current fires services contract with Santa Clara County.	Complete.	City Manager presented a report on 9/24/03; Council directed City Manager to negotiate new contract with County Fire.
b. Adopt a Crime Control Strategy following a workshop in the summer.	Complete.	The Council had a crime control workshop on 9/24/03.

**5. Goals for Residential Growth Control**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Continue Residential Growth Control through 2020 by placing a measure before the voters in November 2003.	Complete.	The City Council agreed to delay presentation of the measure to the voters until March 2004; the measure has qualified for the ballot as Measure C.

**6. Goals for Flood Control**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Aggressively pursue full funding of the PL 566 project.	Ongoing.	Neither the proposed Federal budget nor the proposed State budget includes funding for this project. The Council and Water District will develop a strategy for obtaining funding.
b. Consider City staff evaluation of interim	In progress.	Recommendations for interim flood control measures and a financing plan will be

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
flood control measures and financing plan.		presented with the FY 2005 budget.

**7. Goals for Preserving Open Space**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Conduct an Urban Limit Line/Greenbelt Study in conjunction with the County and the City of San Jose.	In progress.	The study is underway and it is scheduled to be completed by the end of the year. Mayor Kennedy and Councilmember Chang are the Council's representatives to the committee.

**8. Goals for the Downtown**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Adopt the Downtown Master Plan by April and begin implementation.	In progress.	The Council and RDA reviewed the Plan in May 2003. The Council and Planning Commission will consider the EIR and General Plan changes in March 2004. Final adoption is expected in June 2004.

**9. Goals for Economic Development**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Adopt a strategy, including priorities for City staff efforts and criteria for economic development assistance.	Complete.	The Economic Development Strategy was adopted on 5/7/03. The Council approved the Subcommittee's recommendation for a "request for concept" process.
b. Economic Development Subcommittee to recommend allocation of RDA funds for competition for downtown projects.	Complete.	Council approved review criteria for the selection process on 9/24/03. The allocation is expected to be complete in 2004.

**10. Goals for Promoting the Arts**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Support the efforts of	Incomplete.	The Community Foundation was to provide a



<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
the Morgan Hill Community Foundation to establish non-governmental programs for the arts, and request the Foundation to report to the Council on its progress.		progress report to the Council in October 2003; they have not done so.
b. Conduct a workshop on a possible program to require “1%” investment in public art.	Complete.	The Council had a workshop on public art on 8/27/03, and discussed it further at the 9/24/03 Council meeting.

**11. Goals for Sister Cities**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Continue financial support for sister cities at some level.	Complete.	\$3,400 included in 2003/04 budget.
b. Evaluate proposals for additional sister cities as they are presented.	Complete.	No proposals are being evaluated at this time, though the committee will evaluate potential new sister city relationships as they are proposed.

**12. Goals for Day-to-Day Operations**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Conduct a workshop on service level standards to be adopted by the Council.	Complete.	A workshop on service level standards was held December 17, 2003. “Less critical” services identified at that workshop will comprise the foundation for FY 2005 budget cuts.
b. Expand use of the performance measures including customer satisfaction measures.	Complete.	Each department workplan for 2003/04 includes a project to obtain customer satisfaction data.

**13. Goals for Council Working Relationships**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Establish a clear mission, guidelines, and	Complete.	Whenever the Council approves a new committee or task force, the specific mission

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
reporting relationships for commissions, committees, and task forces.		and schedule is presented along with the agenda item.
b. Include an opportunity for "committee reports" on Council agendas.	Complete.	"Committee Reports" are now a standing item on the Council's agenda.
c. City Manager to share with senior executive staff the Council's preferred decision-making approach and "characteristics of good work."	Complete.	Senior staff has been briefed on the results of the Council's goal setting retreat including the Council's preferred approach to decision-making and "characteristics of good work."

**14. Goals for Emerging Issues and Projects**

<b>Goal</b>	<b>Status as of 2/10/04</b>	<b>Comments</b>
a. Continue to monitor opportunities for a future community-wide visioning process.	Ongoing.	The Council discussed this issue at the 2004 goal-setting retreat.
b. Continue to monitor opportunities for submitting a future application to the All America Cities competition.	Ongoing.	
c. Following the Round II decision on new library construction, schedule a workshop to review priorities, location, and funding for all remaining municipal buildings.	In progress.	A Council-designated subcommittee is to develop a library plan by June 2004.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **RESIDENTIAL DEVELOPMENT CONTROL SYSTEM (RDSCS) 2003 QUARTERLY REPORT #4**

#### **RECOMMENDED ACTION(S):**

Accept and File the RDSCS Fourth Quarter Report for 2003

#### **EXECUTIVE SUMMARY:**

In accordance with Section 18.78.150 of the Municipal Code, the Community Development Department is required to review, on a quarterly basis, each proposed development which has received a Residential Development Control System (RDSCS) allotment. The purpose of this review is to determine whether satisfactory progress is being made with processing of the appropriate plans with the Community Development Department.

The majority of the residential projects are proceeding according to approved development schedules. The following projects are classified as BEHIND SCHEDULE: Hale-Garcia (MP-01-04), Barrett-Ditri (MP-02-20), Native Dancer-Quail Meadows (MMP-03-01) and Nina Lane-Chen (MMP-02-01). Hale-Garcia has obtained 7 building permits of their 11 allocations. The applicant has indicated the remaining building permits will be pulled by March 31, 2004. Barrett-Ditri and Native Dancer-Quail Meadows are processing development agreements which include extension of time for site review submittals. Barrett-Ditri is scheduled for City Council consideration on March 17, 2004 and Native Dancer-Quail Meadows is scheduled for City Council consideration on April 7, 2004. Nina Lane-Chen is scheduled for Architectural Review Board consideration on February 19, 2004. Two plans have been submitted for building plan check. The applicant has indicated that the remaining two plans will be submitted by February 29, 2004. Upon the above approvals the projects will resume good standing.

During the fourth quarter monitoring period, RDSCS/Measure "P" projects have secured 83 additional building permits and completed construction of 51 homes.

As of this quarterly report, the projected population for the City of Morgan Hill, based on all dwelling units allocated to date, will be 37,589.

By unanimous vote, the Commission approved the Quarterly Report by minute action and recommended the same by the Council. A copy of the 4th Quarterly Report for 2003 and the draft minutes of the January 27, 2003 Planning Commission meeting are attached for the Council's reference.

#### **FISCAL IMPACT:**

Preparation of this report was accomplished with monies from the Community Development Fund.

**Agenda Item #5**

**Prepared By:**

**Planning Technician**

**Approved By:**

**Community  
Development Director**

**Submitted By:**

**City Manager**

**MEASURE "P" PROJECTS – FISCAL YEAR 1994-95 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Villanova 1 (MP-93-08) San Pedro – Barton)	03/24/92	6	0	0	2Q/03-Planning Commission reserved 6 allotments for FY 2004/05	3/1/04: Apply for "partially completed" allotments for 2004/05
TOTALS		6	0	0		

**MEASURE "P" PROJECTS – FISCAL YEAR 1996-97 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Sandalwood 1 (MP-94-07)	01/24/95	1	0	0	2/Q/03-Planning Commission reserved 1 allotment for FY 2004/05	3/1/04: Apply for building permit
TOTALS		1	0	0		

**MEASURE "P" PROJECTS – FISCAL YEAR 1999-2000 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Coyote Ranch 4 (MP-96-24) (MP-97-25)	02/11/97	1	1	0	3Q/03-Pulled 1 permit	Complete construction
Del Monte Estates (MP-97-17)	02/24/98	7	7	4	4Q/03-Finaled 4 units	Complete construction
Spring Manor (MP-97-22)	02/24/98	6	6	6	4Q/03-Finaled 1 unit	<b>PROJECT COMPLETE</b>
TOTALS		14	14	10		

**MEASURE "P" PROJECTS – FISCAL YEAR 2000-2001 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Del Monte Estates (MP-97-16)	02/24/98	6	6	0	Spring 01-commence construction on 6 units	Complete construction
Spring Manor (MP-97-22) & (MP-98-17)	02/24/98 & 02/23/99	10	10	8	3Q/03–Finaled 2 units	Complete construction
E. Dunne – O’Connell (MP-98-24)	02/23/99	10	10	8	1Q/03–Finaled 1 unit	Complete construction
<b>TOTALS</b>		26	26	16		

**MEASURE "P" PROJECTS – FISCAL YEAR 2001-2002 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Spring Manor (MP-98-17)	02/23/99	5	3	0	Summer '02-Pulled 1 permit	06/30/04: Pull remaining 2 custom permits
E. Dunne–O’Connell (MP-98-24)	02/23/99	5	5	0	2Q/03–Pulled 4 permits	Complete construction
Hale – Garcia (MP-98-32) & (MP-99-12)	02/23/99 & 03/14/00	37	37	37	4Q/03–Finaled 7 units	<b>PROJECT COMPLETE</b>
E. Dunne–Trovare (MP-99-16)	03/14/00	19	19	17	2Q/03–Finaled 6 units	Complete construction
Cochrane – Coyote Estates (MP-00-22)	03/14/00	5	5	2	3Q/03-Finaled 2 units	Complete construction
Llagas – Delco (MP-99-24)	03-14-00	15	15	6	3Q/03-Pulled 3 permits, finaled 1 unit	Complete construction
Malaguerra–Ansuini (MP-99-26)	03-14-00	7	7	0	2Q/03- Commenced const. on 3 units	Complete construction
Hale – Dividend (MP-99-31)	03/14/00	7	7	0	2Q/03-pulled 7 permits	Complete construction
<b>TOTALS</b>		100	98	62		

**MEASURE "P" PROJECTS – FISCAL YEAR 2002-2003 ALLOTMENT**

*PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Hale - Garcia (MP-99-12)	03/14/00	15	15	10	4Q/03-Finaled 3 units	Complete construction
E. Dunne –Trovare (MP-99-16) & (MP-00-29)	03/14/00 & 02/27/01	20	20	10	4Q/03-Finaled 7 units	Complete construction
Llagas/Hale – Dividend (MP-99-24) & (MP-00-10)	03/14/00 & 02/27/01	24	15	0	4Q/03-Final map recorded, pulled 5 permits	5/1/04: Pull 9 building permits
Malaguerra – Ansuini (MP-99-26)	03/14/00	6	0	0	4Q/03-ELBA granted,	6/30/04: Pull building permits
Hale – Dividend (MP-99-31)	03/14/00	6	6	0	3Q/03-Pulled 6 permits	Complete construction
Central - Warmington (MP-00-12)	02/27/01	24	24	24	4Q/03-Finaled 2 units	<b>PROJECT COMPLETE</b>
Sunnyside – Sunny Oaks (MP-00-19)	02/27/01	12	12	9	4Q/03-Finaled 7 units	Complete construction
Cochrane – Mission Ranch (MP-00-21)	02/27/01	15	15	2	4Q/03-Finaled 2 units	Complete construction
Cochrane – Coyote Estates (MP-00-22)	02/27/01	11	10	10	4Q/03-Finaled 10 units	06/30/05: Pull remaining custom building permit
Church – South County Housing (MP-00-31)	09/25/01	36	36	0	4Q/03-Pulled permits for 36 units	Complete construction
<b>TOTALS</b>		169	153	65		

**MEASURE "P" PROJECTS – FISCAL YEAR 2003-2004 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Hale – Dividend (MP-00-10)	02/27/01	7	0	0	2Q/03-Final map recorded	04/01/04: Pull building permits
Hale – Dividend (MP-01-05)	05/14/02	14	0	0	4Q/02- ZA, DA, SD complete, Final Map recorded	04/01/04: Pull building permits
Central – Warmington (MP-00-12)	02/27/01	15	15	0	4Q/03-Pulled 5 permits	Complete construction
Central – Warmington (MP-01-09)	05/14/02	8	2	0	4Q/03-Pulled 2 permits	03/31/04: Pull remaining building permits
Central – Central Park (MP-00-18)	02/27/01	5	5	4	4Q/03-Finaled 3 unit	Complete construction
Central – Central Park (MP-01-10)	05/14/02	8	8	0	3Q/03-Pulled 8 permits	Complete construction
Sunnyside – Sunny Oaks (MP-01-11)	02/27/01	12	8	0	4Q/03-Pulled 8 permits	03/31/04: Pull remaining building permits
Sunnyside – Sunny Oaks (MP-00-19)	05/14/02	6	0	0	4Q/02-Final Map recorded, Planning approval complete	05/08/04: Pull building permits
Cochrane – Mission Ranch (MP-00-21)	02/27/01	9	9	0	3Q/03-Pulled 9 permits	Complete construction
Cochrane – Mission Ranch (MP-01-03)	05/14/02	4	4	0	2Q/03-Final Map recorded	Complete construction
E. Dunne–Trovare (MP-00-29)	02/27/01	13	13	0	3Q/03-Pulled 7 permits	Complete construction
Church – South County Housing (MP-00-31)	09/25/01	13	13	0	4Q/03-Pulled permits for 13 units	Complete construction
Hale – Garcia –(MP-01-04)	05/14/02	11	7	0	4Q/03-Pulled 7 building permits	<b>BEHIND SCHEDULE</b> 05/01/03: Pull remaining building permits
Cochrane –Coyote (MP-01-02)	05/14/02	6	6	0	2Q/03–Pulled 6 permits	Complete construction
Schafer-Bamdad (MP-01-07)	05/14/02	7	0	0	1Q/04-ELBA granted	6/30/04: Submit plans for building plan check
E. Dunne – First Community Housing (MP-01-12)	5/14/02	18	0	0	4Q/02-DA approved	03/31/04: Pull building permits
<b>TOTALS</b>		156	90	4		

**MEASURE "P" PROJECTS – FISCAL YEAR 2004-05 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Schafer-Bamdad (MP-01-07)	05/14/02	8	0	0	1Q/04-ELBA granted	6/30/04: Submit plans for building plan check
E. Dunne – First Community Housing (MP-01-12)	05/14/02	20	0	0	2Q/03-DA approved	04/01/05: Pull building permits
Tilton-Glenrock/Shea (MP-02-03)	5/27/03	29	0	0	1Q/04-ZA, SD, DA & SR in process	1/28/04:-Final map submittal due
Cory-San Pedro Ptnrs. (MP-02-07)	5/27/03	9	0	0	4Q/03-SD, DA, ZA, & SR in process, EA approved	1/28/04: Final map submittal due
Peet-Lupine Investors (MP-02-12)	5/27/03	11	0	0	4Q/03-SD, DA, ZA, SR in process	1/28/04: Final map submittal due
Cochrane-Coyote Est. (MP-02-14)	5/27/03	9	0	0	4Q/03- SD & DA approved	2/28/04: Final map submittal due
Mission View-Mission Ranch (MP-02-15)	5/27/03	11	0	0	4Q/03-SD, DA in process	1/28/04: Final map submittal due
E. Central-Warmington (MP-02-19)	5/27/03	24	0	0	4Q/03-ZA, SD, DA approved for 10 lots; SD, DA, ZA, EA in process for 14 lots	1/28/04: Final map submittal due
Sunnyside-Quail Creek (MP-02-24)	5/27/03	14	0	0	3Q/03-SD approved	2/28/04-Final map submittal due
E. Central-Central Park (MP-02-25)	5/27/03	17	0	0	4Q/03-SD approved	2/28/04-Final map submittal due
Barrett-Ditri (MP-02-20)	5/27/03	6	0	0	3Q/03-SD, ZA, DA, EA in process	<b>BEHIND SCHEDULE</b> 9/30/03-Submit SR
Watsonville-South County Housing (MP-02-26)	4/22/03	12	0	0	3Q/03-SD, SR, EA, DA in process	2/27/04-Final map submittal due
<b>TOTALS</b>		170	0	0		



**MEASURE "P" PROJECTS – FISCAL YEAR 2005-06 ALLOTMENT**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Tilton-Glenrock/Shea (MP-02-03)	5/27/03	30	0	0	1Q/04-ZA, SD, DA & SR in process	1/28/04:-Final map submittal due
Cory-San Pedro Ptnrs. (MP-02-07)	5/27/03	7	0	0	4Q/03-SD, DA, ZA, & SR in process, EA approved	1/28/04:-Final map submittal due
Peet-Lupine Investors (MP-02-12)	5/27/03	15	0	0	4Q/03-DA, ZA, SR in process	1/28/04: Final map submittal due
Cochrane-Coyote Est. (MP-02-14)	5/27/03	8	0	0	4Q/03- SD & DA approved	2/28/04: Final map submittal due
Mission View-Mission Ranch (MP-02-15)	5/27/03	15	0	0	4Q/03-SD, DA in process	1/28/04: Final map submittal due
E. Central-Warmington (MP-02-19)	5/27/03	12	0	0	4Q/03-ZA, SD, DA, EA in process	1/28/04: Final map submittal due
Sunnyside-Quail Creek (MP-02-24)	5/27/03	8	0	0	3Q/03-SD approved	2/28/04-Final map submittal due
E. Central-Central Park (MP-02-25)	5/27/03	22	0	0	4Q/03-SD approved	2/28/04-Final map submittal due
Barrett-Ditri (MP-02-20)	5/27/03	9	0	0	3Q/03-SD, ZA, DA, EA in process	<b>BEHIND SCHEDULE</b> 9/30/03-Submit SR
<b>TOTALS</b>		126	0	0		

**MEASURE "P" PROJECTS – FISCAL YEAR 2006-07 ALLOTMENT**

PROJECT & FILE #	5/27/03	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Tilton-Glenrock/Shea (MP-02-03)	5/27/03	20	0	0	1Q/04-ZA, SD, DA & SR in process	1/28/04:-Final map submittal due
Cory-San Pedro Ptnrs. (MP-02-07)	5/27/03	8	0	0	4Q/03-SD, DA, ZA, & SR in process, EA approved	1/28/04:-Final map submittal due
Peet-Lupine Investors (MP-02-12)	5/27/03	12	0	0	4Q/03-SD, DA, ZA & SR in process	1/28/04:-Final map submittal due
Cochrane-Coyote Est. (MP-02-14)	5/27/03	8	0	0	4Q/03- SD & approved	2/28/04: Final map submittal due
Mission View-Mission Ranch (MP-02-15)	5/27/03	12	0	0	4Q/03-SD, DA in process	1/28/04:-Final map submittal due
TOTALS		60	0	0		

**MICRO MEASURE “P” PROJECTS****FISCAL YEAR 1999-2000**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Christeph - Kosich (MP-99-04)	04/27/99	1	0	0	3Q/03, Final map in process	3/31/04: Obtain building permit
Berkshire – Singh (MP-00-01)	04/25/00	1	1	0	4Q/03-ELBA granted, pulled 1 permit	3/30/04: Commence construction
<b>TOTALS</b>		2	1	0		

**FISCAL YEAR 2000-2001**

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Berkshire – Singh (MP-00-01)	04/25/00	3	3	0	4Q/03-ELBA granted, pulled 3 permits	3/30/04: Commence construction
E. Dunne - Grewal (MP-00-02)	04/25/00	1	0	0	2Q/03-Final map in process, ELBA granted	02/15/04: Pull building permits
McLaughlin – Jones (MP-00-03)	04/25/00	1	0	0	2Q/03-SD, DA, ZA in process, ELBA granted	3/31/04: Final map submittal due
<b>TOTALS</b>		5	3	0		

## MICRO MEASURE “P” PROJECTS

## FISCAL YEAR 2001-2002

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
E. Dunne –Grewal (MP-00-02)	4/25/00	3	0	0	2Q/03-Final map in process	02/15/04: Pull building permits
McLaughlin – Jones (MP-00-03)	4/25/00	4	0	0	2Q/03-SD, DA, ZA in process, ELBA granted	03/31/04: Final map submittal due
TOTALS		7	0	0		

## FISCAL YEAR 2003-2004

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Nina Lane – Chen (MMP-02-01)	05/14/02	5	0	0	4Q/02- SR in process	<b>BEHIND SCHEDULE</b> 12/15/03-Submit plans for building plan check (2 in plan check)
De Witt – Marquez (MMP-02-02)	05/14/02	2	0	0	2Q/03-SR,SD,EA,SR and DAA approved, Final Map in process	02/02/04: Final Map submittal due
TOTALS		7	0	0		

## FISCAL YEAR 2004-2005

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
De Witt-Marquez (MMP-02-02)	05/14/02	2	0	0	2Q/03-SR,SD,EA,SR and DAA approved, Final Map in process	02/02/04: Final Map submittal due
Native Dancer-Quail Meadows (MMP-03-01)	4/22/03	2	0	0	3Q/03-SD, DA in process	<b>BEHIND SCHEDULE</b> 9/30/03-Submit SR
De Witt-Marquez (MMP-03-02)	4/22/03	2	0	0	3Q/03-SD, DA, ZA, SR, & EA approved	Complete Annexation 01/28/04: Final map submittal due,
<b>TOTALS</b>		<b>6</b>	<b>0</b>	<b>0</b>		

## FISCAL YEAR 2005-2006

PROJECT & FILE #	ALLOCATION DATE	# OF UNITS	# OF BLD PERMITS PULLED	# OF UNITS FINALED	MOST RECENT ACTION/ENTITLEMENT & DATE	NEXT STEP/DEADLINE
Native Dancer-Quail Meadows (MMP-03-01)	4/22/03	4	0	0	3Q/03-SD, DA in process	<b>BEHIND SCHEDULE</b> 9/30/03-Submit SR
De Witt-Marquez (MMP-03-02)	4/22/03	1	0	0	3Q/03-SD, DA, ZA, SR, & EA approved	Complete Annexation 01/28/04: Final map submittal due,
<b>TOTALS</b>		<b>5</b>	<b>0</b>	<b>0</b>		

<b>GRAND TOTALS FOR ALL "P" PROJECTS (Pre 1990 through 2006-07)</b>	<b>860</b>	<b>385</b>	<b>157</b>		
---	------------	------------	------------	--	--

Note: For calendar year 2003 YTD (including non-RDCS projects), permits for 301 units were pulled, 13 permits for secondary units were pulled , for a total of 314 units, 229 units were finaled, and 11 units were demolished.

## PARTIALLY COMPLETED SETASIDE STATUS

<u>Allotment Setaside</u>	<u>Total #</u>	<u>Allocated</u>	<u>Remaining</u>
FY 2003-04	1	0	1
FY 2004-05	6	0	6
FY 2005-06	<u>0</u>	<u>0</u>	<u>0</u>
	7	0	7

## AFFORDABLE SETASIDE STATUS

<u>Allotment Setaside</u>	<u>Total #</u>	<u>Allocated</u>	<u>Remaining</u>
FY 2002-03	36	36	0
FY 2003-04	31	31	0
FY 2004-05	32	32	0
FY-2005-06	<u>40</u>	<u>0</u>	<u>40</u>
	139	99	40

## MICRO SETASIDE STATUS

<u>Allotment Setaside</u>	<u>Total #</u>	<u>Allocated</u>	<u>Remaining</u>
FY 2003-04	7	7	0
FY 2004-05	6	6	0
FY-2005-06	<u>9</u>	<u>5</u>	<u>4</u>
	22	18	4



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**SUBDIVISION APPLICATION: SD-03-12: SAN PEDRO-DICONZA**

**RECOMMENDED ACTION:** Take no action, thereby concurring with the Planning Commission's decision regarding approval of the subdivision map.

**EXECUTIVE SUMMARY:** A request to subdivide a 5.689-acre portion of a 6.6-acre site to allow for the construction of 24 units, which will represent phases, I, II, and III of the San Pedro Villas project located on the northeast corner of the intersection of San Pedro Avenue and Butterfield Blvd.

In May 2003, the San Pedro Villas project received residential building allotments for nine units for FY 2004-2005, seven units for FY 2005-2006, and eight units for FY 2006-2007. A remainder parcel of 35,001 sq. ft. will be the future Phase IV of the project. The project build out will be 32 units.

The project site is currently zoned R-2 (3,500). Under a separate zoning amendment application, the applicant is requesting to amend the zoning in order to adopt a precise development plan for the site. The precise development plan includes 32-units and approximately .903 acre of common park/open space with recreational amenities. Staff supports the overall lot layout and circulation plan of the proposed subdivision. The proposed lot sizes will range from 3240 sq. ft. up to 5682 sq. ft. The proposed lot sizes are equivalent to the existing lot sizes of the projects to the east of the site. The project will also have two ingress/egress points into the project, one from Cory Drive via San Juan Drive and a second from San Pedro Avenue.

The applicant requested that the attached units in Phase I of the project be detached, due to the high cost of insuring the project. A deed restriction will need to be recorded over every modified setback lot prohibiting future building additions on either side of the homes, unless the additions comply with the site development standards of the underlying zoning district. The lots as proposed meet the applicable city standards and the overall lot layout and circulation is consistent with the proposed RPD. The modified setbacks will need to meet the requirements of Ordinance 1641.

This application was reviewed by the Planning Commission at their January 27 meeting, at which time the Commission voted 7-0, approving the request. The Planning Commission resolution, conditions of approval, and subdivision map are attached. The staff report for the subdivision is attached to the development agreement request within this same agenda.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover processing of this application.

**Agenda Item # 6**

**Prepared By:**

**Associate Planner**

**Approved By:**

**Director of Community  
Development**

**Submitted By:**

**City Manager**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *February 18, 2004*

### **REIMBURSEMENT FOR PUBLIC IMPROVEMENTS BY COYOTE CREEK ESTATES (TRACT 9396)**

#### **RECOMMENDED ACTION:**

1. Approve appropriation of \$38,656 from current year unappropriated Public Facility/Non-AB1600 (346) Fund to fund this reimbursement.
2. Authorize City Manager to execute the attached reimbursement agreement on behalf of the City.

**EXECUTIVE SUMMARY:** 5M Development LLC, is the developer of Coyote Creek Estates, a 15 lot subdivision located on the west side of Malaguerra Avenue between Silverwings Court and Sullivan Court (see attached location map). To meet their Measure P commitments, the developer agreed to install a pedestrian pathway on the westerly side of Malaguerra Avenue from Sullivan Court to Cochrane Road. In an effort to enhance pedestrian safety and improve drainage in the area, city staff asked the developer to modify the pathway design to include city standard curb, gutter and sidewalk. The revised plans provide for the eventual installation of full improvements on the westerly side of Malaguerra Avenue from Sullivan Court to Cochrane Road, a distance of approximately 600 feet. SCVWD approval and extensive environmental review is needed to install the easterly 390 feet of these improvements, therefore, only 210 feet of improvements are proposed to be installed at this time. The developer's financial commitment toward the pedestrian pathway is approximately \$29,966. The cost to install full improvements on Malaguerra Avenue for approximately 210 feet is \$68,622. Therefore, the developer is requesting reimbursement in the amount of \$38,656.

It is recommended that the City fund this reimbursement using Measure P CIP funds which accrue to the Public Facility/Non-AB1600 (346) Fund.

Staff recommends that the City approve the developer's reimbursement request since the scope of work exceeds the developer's financial obligation for this Measure P commitment.

**FISCAL IMPACT:** \$38,656 appropriated from our unappropriated Public Facility/Non-AB1600 Fund balance. Sufficient funds exist in the City's 346 Fund balance to provide the requested reimbursement.

**Agenda Item # 7**

**Prepared By:**

**Senior Civil Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**





## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *February 18, 2004*

### **AQUATICS CENTER PROJECT – JANUARY CONSTRUCTION PROGRESS REPORT**

**RECOMMENDED ACTION(S):** *Information Only*

#### **EXECUTIVE SUMMARY:**

Previous Council action awarded the contract for construction of the Aquatics Center Project to Gonsalves & Stronck Construction Company, Inc. At that time, staff informed Council that we would report monthly on the progress of the construction. Attached is the progress report for the month of January. This report has been sent to our webmaster for posting on the City's website. The mechanical building construction was delayed earlier and is still the critical path activity; however, the contractor has recovered some lost time during masonry and rough carpentry. Currently, the mechanical building construction delay has been reduced to approximately five days behind schedule. The pool construction remains on schedule. Barring unforeseen circumstances, including excessive rain days, construction completion is still scheduled for May 24<sup>th</sup>, 2004. The project is currently within budget.

**FISCAL IMPACT:** None

**Agenda Item # 8**

**Prepared By:**

**Project Manager**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **ACCEPTANCE OF SAN PEDRO PONDS FENCING PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Accept as complete the San Pedro Ponds Fencing Project in the final amount of \$74,706.18.
2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

#### **EXECUTIVE SUMMARY:**

The contract for the San Pedro Ponds Fencing Project was awarded to Cyclone Fence and Iron by the City Council at their September 17, 2003 meeting in the amount of \$87,010. Per previous staff report, staff received confirmation from the contractor for a deductive change order to change from black vinyl coated fencing to galvanized fencing, which lowered the overall construction price to \$65,000 with a \$10,000 contingency.

The project scope consisted of the installation of approximately 10,500 LF of 3'- 6" high galvanized fencing with equipment and access gates. All work has been completed in accordance with the plans and specifications.

#### **FISCAL IMPACT:**

This project was funded in the current year budget under CIP Project #122001. The allocated project construction cost with contingency was \$75,000. The contract was awarded in the amount of \$87,010 and the final contract price is \$74,706.18.

**Agenda Item # 9**

**Prepared By:**

\_\_\_\_\_  
**Assistant Engineer**

**Approved By:**

\_\_\_\_\_  
**Public Works Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**

Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION  
CITY OF MORGAN HILL  
**San Pedro Ponds Fencing Project**

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 18th— day of February, 2004, did file with the City Clerk of said City the contract for performing work which was heretofore awarded to Cyclone Fence and Iron, on September 17, 2003 in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on January 1, 2004, accepted by the City Council on February 18, 2004, and that the name of the surety on the contractor's bond for labor and materials on said project is American Contractors Indemnity Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefore approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 20\_\_.

---

Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date:



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **GALVAN PARK HANDBALL COURT AND LANDSCAPE BEAUTIFICATION PROJECT**

#### **RECOMMENDED ACTION(S):**

1. Accept as complete the Galvan Park Handball Court and Landscape Beautification Project in the final amount of \$63,954.
2. Direct the City Clerk to file the attached Notice of Completion with the County Recorder's office.

#### **EXECUTIVE SUMMARY:**

The contract for the Galvan Park Handball Court and Landscape Beautification Project was awarded to Bellicitti and Pellicciotti Construction Co., Inc. by the City Council at their May 21, 2003 meeting in the amount of \$70,724. The project resulted in the removal and replacement of the handball court, additional sidewalk, concrete curb, concrete access drive, asphalt concrete removal and replacement, and miscellaneous concrete flatwork.

The work has been completed in accordance with the plans and specifications.

#### **FISCAL IMPACT:**

This project was funded in the current year budget under CIP Project #123002. The allocated project construction cost with a 10% contingency was \$77,800. The contract was awarded in the amount of \$70,724 and the final contract price is \$63,954.

**Agenda Item # 10**

**Prepared By:**

**Assistant Engineer**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**

Record at the request of  
and when recorded mail to:

CITY OF MORGAN HILL  
CITY CLERK  
17555 Peak Avenue  
Morgan Hill, CA 95037

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 27383

NOTICE OF COMPLETION  
CITY OF MORGAN HILL  
**Galvan Park Handball Court and Landscape Beautification Project**

NOTICE IS HEREBY GIVEN, pursuant to Section 3093 of the Civil Code of the State of California, that the Director of Public Works of the City of Morgan Hill, California, on the 18th— day of February, 2004, did file with the City Clerk of said City, the contract for performing work which was heretofore awarded to Bellicitti and Pellicciotti Construction Co., Inc. on May 21, 2003 in accordance with the plans and specifications for said work filed with the City Clerk and approved by the City Council of said City.

That said improvements were substantially completed on January 30, 2004, accepted by the City Council on February 18, 2004, and that the name of the surety on the contractor's bond for labor and materials on said project is Merchants Bonding Company.

That said improvements consisted of the construction and installation of all items of work provided to be done in said contract, all as more particularly described in the plans and specifications therefore approved by the City Council of said City.

Name and address of Owner: City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, California

Dated: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Jim Ashcraft, Director of Public Works

I certify under penalty of perjury that the foregoing is true and correct.

Irma Torrez, City Clerk  
City of Morgan Hill, CA  
Date:



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** February 18, 2004

### **APPROVE FILING OF A PROPOSITION 40 GRANT APPLICATION FOR THE COMMUNITY PARK IMPROVEMENT PROJECT**

**RECOMMENDED ACTION:** Adopt the attached Resolution approving the filing of an Application for local assistance funds from the Proposition 40 Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 and designate the City Manager as the authorized agent to submit and execute all documents relative to the grant.

**EXECUTIVE SUMMARY:** The 2003-04 CIP identifies the Community Park Improvements Project with funding identified from two sources- Park Development Funds and Proposition 40 Per Capita Grant Program. This latter source of funds results from the 2002 Resources Bond Act administered by the State of California Department of Parks and Recreation. The City of Morgan Hill will receive a minimum of \$220,000. The Community Park Improvement Project is eligible for this funding.

As a first step in the application process, the governing body must authorize by resolution the application for these funds allowing the City to enter into a contact with the State which must be executed prior to June 30, 2006. The CIP indicates construction of the Community Park Improvements in Fiscal Year 2004-05.

Staff recommends that City Council approve the filing of this grant funding application.

**FISCAL IMPACT:** None at this time.

**Agenda Item # 11**

**Prepared By:**

**Dep Dir Public Works**

**Approved By:**

**Public Works Director**

**Submitted By:**

**City Manager**

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING THE APPLICANT TO APPLY FOR GRANT FUNDS FOR THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS, AND COASTAL PROTECTION ACT OF 2002**

**WHEREAS**, the people of the State of California have enacted the Per Capita Grant Program which provides funds for the acquisition and development of neighborhood, community, and regional parks and recreation lands and facilities; and

**WHEREAS**, the California Department of Parks and Recreation has been delegated the responsibility for the administration of the grant program, setting up necessary procedures; and

**WHEREAS**, said procedures established by the California Department of Parks and Recreation require the Applicant's Governing Body to certify by resolution the approval of the Applicant to apply for the Per Capita Allocation, and

**WHEREAS**, the Applicant will enter into a Contract with the State of California;

**NOW, THEREFORE, BE IT RESOLVED** by the City of Morgan Hill City Council that it hereby:

1. Approves the filing of an Application for local assistance funds from the Per Capita Grant Program under the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002; and
2. Certifies that the Applicant has or will have sufficient funds to operate and maintain the Project(s); and
3. Certifies that the Applicant has reviewed, understands and agrees to the General Provisions contained in the Contract shown in the Procedural Guide; and
4. Appoints the City Manager as agent to conduct all negotiations, execute and submit all documents including, but not limited to Applications, agreements, payment requests and so on, which may be necessary for the completion of Project(s).

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of February, 2004 by the following vote.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**🍷 CERTIFICATION 🍷**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,**  
do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City  
Council at a Regular Meeting held on February 18, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**





## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item # 12**

**Prepared By:**

**Management Analyst**

**Approved By:**

**Department Director**

**Submitted By:**

**City Manager**

### **APPROVE PURCHASE OF NEW SEWER FLUSHER**

#### **RECOMMENDED ACTION(S):**

1. Approve purchase of a 2004 "Vac-Con" hydraulic sewer cleaner for the Sewer Division at a total price of \$208,564.10 in accordance with Section 3.04.150.B and Section 3.04.180 of the Municipal Code – Purchase through another Government entity.
2. Declare R87101 (pickup) and S87112 (1987 Vactor hydraulic sewer cleaner) as surplus equipment.

**EXECUTIVE SUMMARY:** Our 1987 Vactor hydraulic sewer cleaner was approved for replacement this fiscal year. It has reached its useful life expectancy. This piece of equipment is used daily in the maintenance of sanitary sewer lines, storm drain lines, storm drain inlets, and pump stations. This equipment is an integral part of the City's preventive maintenance program. It is also used in relieving emergency sanitary sewer main blockages.

The City of Foster City recently purchased through competitive bidding an identical piece of equipment and included a "piggy-back" clause in their bid requiring the successful bidder to offer the same equipment at the same price to other municipalities. Staff is confident the bid submitted is a competitive price and that it meets our specifications. Staff recommends the purchase from Municipal Maintenance Equipment, Inc., the low bidder, for \$208,564.10.

The Parks Division has used R87101, a 1987 Chevy ½ ton pickup, to carry a sprayer. Parks is requesting to surplus R87101 and replace with S90140. S90140 is a 1990 Ford 4x4 ¾ Ton Pickup and was authorized for disposal by Council on February 19, 2003. It was used by the Sewer Division to haul a portable generator. It had problems with the front end which was attributed to hauling the generator up steep inclines. It was also not considered safe because of the height to width ratio of the generator to the truck. The sprayer is much lower and lighter in weight and would not pose such a safety hazard. Parks would be using the vehicle on the valley floor and not up steep inclines.

Staff is also requesting that S87112 (1987 Vactor hydraulic sewer cleaner) and R87101 (1987 pickup) are declared as surplus to be traded-in, sold at auction or sold by sealed bids.

**FISCAL IMPACT:** The cost of the new unit is \$208,564.10 including \$9,000 trade-in on the old unit. The FY03/04 budget included \$250,000 in the Vehicle Replacement Fund for the replacement of the hydraulic sewer cleaner; therefore sufficient funds exist in the current year budget.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item # 13**

**Prepared By:**

**Helene Leichter  
City Attorney**

**Submitted By:**

**J. Edward Tewes  
City Manager**

### **APPROVE COUNCIL POLICY REGARDING DELEGATION OF AUTHORITY TO SETTLE CLAIMS AND LAWSUITS**

#### **RECOMMENDED ACTION:**

Approve Council Policy 04-01 Regarding Delegation of Authority to Settle Claims and Lawsuits

**EXECUTIVE SUMMARY:** This item requests that the City Council adopt the attached policy governing delegation of authority to settle claims and lawsuits filed against or by the City.

Government Code section 935.4 allows the City Council to delegate the authority to settle claims against the City, as long as the amount of settlement does not exceed \$50,000.00. Current City policy, established by Resolution No. 4390, a copy of which is attached, allows city staff to settle claims under \$10,000.00.

Historically, except for minor tort claims under \$5,000, staff has obtained the Council's approval of settlement offers. The attached chart shows the historical patterns of our claims and settlements, and provides information as to the type of claim (workers' compensation, tort, other), and amount of settlement.

Staff has surveyed other jurisdictions to determine their settlement authority. A chart showing the responses of other agencies is attached. However, staff does not believe that there is a consistent pattern that emerges from the data obtained.

The Finance and Audit Committee recommends that staff have the ability to settle claims up to \$20,000. This amount is commensurate with the authority given to staff for purchasing. Given the historical pattern of settlement amounts, staff believes this authority is reasonable. Implementation of the policy would streamline the settlement process by allowing claims to be settled more quickly, and avoid numerous closed sessions.

However, staff is cognizant of the need to keep Council informed of settlements. If the policy is implemented, staff would submit reports to Council every six months stating the name, type of claim, and amount of settlement. In addition, the policy allows staff to bring settlement issues to the Council regardless of the amount of intended settlement. Staff anticipates doing so if the case is particularly complicated, has practical or legal ramifications beyond the particular matter, and/or represents a trend in claims that should be examined before settlement is entered into.

**FISCAL IMPACT:** There is no cost to the City associated with the adoption of the Council Policy. Staff anticipates that implementation will reduce administrative costs associated with bringing such settlement matters to Council for review and approval.

# **CITY OF MORGAN HILL**

## **CITY COUNCIL POLICIES AND PROCEDURES**

**CP 04-01**

**SUBJECT:** SETTLEMENT AUTHORITY

**DATE:** FEBRUARY 18, 2004

---

The City is often called upon to consider settlement of claims or lawsuits. These claims and lawsuits may be for workers' compensation matters, dangerous conditions of public property, sewer spills, or other City acts or omissions leading to potential or actual liability. The City Council spends a great deal of time determining whether such matters should be resolved through settlement, and at what cost. For cases of lesser value, the City Council believes that cost-effective administration allows delegation of settlement decisions to the City staff. Therefore, the City Council adopts the following guidelines for delegation of settlement authority:

1. Where the amount of the settlement, or value involved, is under twenty thousand dollars (\$20,000.00), and if City Council approval is not legally or otherwise required, the settlement proposal shall be reviewed and acted upon by the City Manager, after receiving the advice and recommendation of the City Attorney and Risk Manager. The City Manager is hereby delegated the authority to execute all documents as appropriate to effectuate such settlements.
2. Where the amount of the settlement, or value involved, is over twenty thousand dollars (\$20,000.00), or if City Council approval is legally or otherwise required, the settlement proposal shall be reviewed and acted upon by the City Council.
3. All settlements shall be reported to the City Council through appropriate means by the City Attorney.
4. Nothing in the foregoing shall restrict the ability of staff to take matters regarding claims or lawsuits, regardless of value of settlement, to the City Council for discussion and decision.

This policy shall remain in effect until modified by the City Council.

**APPROVED:**

---

DENNIS KENNEDY, Mayor



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **APPROVE PURCHASE OF CMAS PRODUCTS FOR THE FURNISHINGS, FIXTURES, AND EQUIPMENT (FF&E) FOR THE NEW POLICE FACILITY**

#### **RECOMMENDED ACTION(S):**

- 1) Authorize the City Manager to approve a Purchase Order in the amount of \$68340.25 to Partners in Progressive Storage Solutions for the Furniture, Fixtures and Equipment (FF&E) at the new police facility.

#### **EXECUTIVE SUMMARY:**

In July 2003 the council awarded a building contract located at 16200 Vineyard Blvd. as the future Morgan Hill Police Department. The Council approved the purchasing price and the estimated FF&E to complete the project. As the final design phase is completed for the tenant improvements, some FF&E needs to be purchased immediately in order to be installed during construction.

The current retention requirements of the county District Attorney's office, is ten (10) years. In order to accommodate the easy retrieval of these records, we need the documents/property readily available to our personnel and the public. This high density storage system allows for easy retrieval and allows us to accommodate a larger quantity of documents/property. Currently, these documents/property are housed off site making it inconvenient to retrieve when necessary.

This shelving unit will assist us in delivering optimum customer service, saving personnel time by maintaining the documents/property on site.

It is necessary to order this equipment as soon as possible as there is a 4-6 week delivery time after the order. We wish to order the equipment now, have it delivered to the location for installation in order to meet the anticipated construction completion date.

This equipment is deemed specialized to meet the state evidence requirements and recommendations by auditor consultant.

The City has used the State purchasing process in the past to purchase products in accordance with Sec. 3.04.180 of City Municipal Code. The price through the State contract is very good based upon the very competitive bidding for the State contract. Using the State purchasing system we are guaranteed the best price for the products ordered.

#### **FISCAL IMPACT:**

The funds set aside for the FF&E in this project will be drawn from 346-86450-8049-288000.

**Agenda Item # 14**

**Prepared By:**

**Lt. Terrie Booten**

**Approved By:**

**Chief B. Cumming**

**Submitted By:**

**Acting City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item # 15**

**Prepared By:**

**Deputy City Clerk**

**Approved By:**

**City Clerk**

**Submitted By:**

**City Manager**

### **ADOPT ORDINANCE NO. 1654, NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 03-14 FOR MP 02-19: E. CENTRAL - WARMINGTON (APNs 726-20-003 & 726-28-048 through 052)**

### **RECOMMENDED ACTION(S):**

**Waive** the Reading, and **Adopt** Ordinance No. 1654, New Series, and **Declare** That Said Title, Which Appears on the Public Agenda, Shall Be Determined to Have Been Read by Title and Further Reading Waived.

### **EXECUTIVE SUMMARY:**

On February 4, 2004, the City Council Introduced Ordinance No. 1654, New Series, by the Following Roll Call Vote: AYES: Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.

### **FISCAL IMPACT:**

None. Filing fees were paid to the City to cover the cost of processing this application.

## **ORDINANCE NO. 1654, NEW SERIES**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 03-14 FOR MP 02-19: E. CENTRAL - WARMINGTON (APNs 726-20-003 & 726-28-048 through 052)**

#### **THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution Nos. 03-17a and 03-17b, adopted May 27, 2003, has awarded allotments to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 02-19: E. Central - Warmington (Phase 3)	10 single-family homes

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the development proposal and agreement approved by this ordinance is compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 4<sup>th</sup> Day of February 2004, and was finally adopted at a regular meeting of said Council on the 18<sup>th</sup> Day of February 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

∞ **CERTIFICATE OF THE CITY CLERK** ∞

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. 1654, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 18<sup>th</sup> Day of February, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item #16**

**Prepared By:**

**Assistant to the City  
Manager**

**Submitted By:**

**City Manager**

### **THE LOCAL TAXPAYERS AND PUBLIC SAFETY PROTECTION ACT**

**RECOMMENDED ACTION(S):** Adopt the Attached Resolution

**EXECUTIVE SUMMARY:** The League of California Cities and other local government partners have drafted an initiative for placement on the November statewide ballot. The attached measure intends to reduce the frequency with which the State government diverts revenues into its coffers at the expense of local governments. In his proposed budget, for example, Governor Schwarzenegger proposes to divert over \$300,000 of existing property tax revenues, that are currently going to the City, into the State's budget. The initiative is currently being circulated for signatures.

In order to support the City governments ability to serve City residents and businesses, staff recommends supporting the attached resolution endorsing the initiative.

**FISCAL IMPACT:** No budget adjustment is requested at this time. If this measure qualifies for the ballot and is passed, it is likely that the future of City revenue streams will be more certain.



## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL SUPPORTING A STATEWIDE BALLOT INITIATIVE TO REQUIRE VOTER APPROVAL BEFORE STATE GOVERNMENT MAY TAKE LOCAL TAX FUNDS**

**WHEREAS**, state government annually seizes over \$800 million in city property tax funds (ERAF) statewide, costing cities over \$6.9 billion in lost revenues over the past 12 years and seriously reducing resources available for local public safety and other services; and

**WHEREAS**, in adopting the state budget this year the Legislature and Governor appropriated local vehicle license fee backfill and redevelopment property tax funds that are needed to finance critical city services such as public safety, parks, street maintenance, housing and economic development; and

**WHEREAS**, the deficit financing plan in the state budget depends on a local property and sales tax swap that leaves city services vulnerable if the state's economic condition fails to improve; and

**WHEREAS**, the adopted state budget assumes an ongoing structural budget deficit of at least \$8 billion, putting city resources and services at risk in future years to additional state revenue raids; and

**WHEREAS**, it is abundantly clear that state leaders will continue to use local tax funds to balance the state budget unless the voters limit the power of the Legislature and Governor to do so; and

**WHEREAS**, the voters of California are the best judges of whether local tax funds should be diverted, confiscated, shifted or otherwise taken to finance an ever-expanding state government; and

**WHEREAS**, the General Assembly of Voting Delegates of the League of California Cities at its September 10, 2003 meeting voted to sponsor a statewide ballot initiative to empower the voters to limit the ability of state government to confiscate local tax funds to fund state government; and

**WHEREAS**, the League has requested that cities offer support for a November 2004 ballot initiative that will allow voters to decide whether state government may appropriate local tax funds to fund state government operations and responsibilities.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MORGAN HILL** that the City hereby expresses its strong support for a statewide ballot initiative to allow voters to decide whether local tax funds may be taken, confiscated, shifted, diverted or otherwise used to fund state government operations and responsibilities; and

**RESOLVED FURTHER**, that the City Council and staff are authorized to provide impartial informational materials on the initiative as may be lawfully provided by the city's representatives. No public funds shall be used to campaign for or against the initiative; and

**RESOLVED FURTHER**, that the residents of the City of Morgan Hill are encouraged to become well informed on the initiative and its possible impacts on the critical local services on which they rely; and

**RESOLVED FURTHER**, that the City Clerk is hereby directed to send a copy of this adopted resolution to the Executive Director of the League of California Cities.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of February, 2004 by the following vote.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**🔒 CERTIFICATION 🔒**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on February 18, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE: FEBRUARY 18, 2004**

**TITLE: MID-YEAR 2003/04 BUDGET ADJUSTMENTS**

### **RECOMMENDED ACTION(S):**

Approve proposed mid-year budget adjustments for FY 2003/04

### **EXECUTIVE SUMMARY:**

Staff has reviewed the FY 2003/04 Budget at mid-year. In reviewing expenditure activity for all funds, staff identified certain situations where there is a need for accounting corrections and where expenditures are projected to exceed the existing budget by year-end. To amend the budgets for these projected expenditures, staff recommends that the City Council approve the budget adjustments proposed on Exhibit A. The Exhibit includes the following items:

1. Increase appropriation to Communications & Marketing [010-5145] to correctly show IT charges
2. Transfer a total of \$25,485.90 from Fund 317 to Fund 206 for burrowing owl studies
3. Increase appropriations in Fund 317 for Continuing work on resolving contract and other issues at the CCC
4. Appropriate \$850,000 in RDA Housing to carry over Watsonville Teacher Housing Program from prior year
5. Correct vehicle replacement revenues to match total charges to departments
6. Correct corporation yard expenditure misallocations
7. Correct CCC expenditure tracking last year by transferring in \$24,961 from Fund 317 to Fund 347
8. Correct Library expenditures by transferring the project back to Fund 317

### **FISCAL IMPACT:**

The above changes result from incurrence of necessary costs. The effects on fund balances for these funds are described on the attached Budget Scorecards.

<b>Agenda Item #</b>
<b>Prepared By:</b>
<b>Budget Manager</b>
<b>Approved By:</b>
<b>Finance Director</b>
<b>Submitted By:</b>
<b>City Manager</b>

**Summary of Mid-Year Budget Adjustments  
FY 2003/04**

**Exhibit A**

<b>Item</b>	<b>Account</b>	<b>Account Description</b>	<b>Revenue Increase (Decrease)</b>	<b>Appropriation Increase (Decrease)</b>	<b>Budgeted Fund Balance (Decrease)</b>	<b>Explanation</b>
1	010-45009-5145	Communications & Marketing, Data Processing Services		\$5,258	\$(5,258)	Correctly show data processing charges from cost allocation schedule
2	206-39238	Com Dev Fund, Transfer in from Fund 317	25,485.90			Transfer funds from Redevelopment Fund to Community Development Fund for Burrowing Owl project
2	206-42231-5120-BUOWL	Planning, Contract Services		25,485.90	(25,485.90)	Budget funds for Burrowing Owl project
2	317-49235-8010	Economic Development, Transfer to Fund 206		25,485.90		Transfer funds to Community Development Fund for Burrowing Owl project
3	317-86530-8055-219097	RDA Fund, Construction, Community & Cultural Center		25,000	(25,000)	Continuing work on resolving contract and other issues at the CCC
4	327-86441-7100	RDA, New Housing Programs		850,000	(850,000)	Carry over appropriations from FY02/03 to FY03/04 for the Watsonville Road Teacher Housing project
5	790-37681	Vehicle Replacement Fund, Fleet Replacement Charge	69,946		69,946	Correctly show amount collected for fleet replacement
6	650-42231-5710	Water Operation, Contract Services		(10,000)	10,000	Reduce contract services to transfer out funds to Public Facility Fund
6	650-49222-5710	Water Operation, Transfer to-Public Facility		10,000		Correct distribution of charges for the Corp Yard Expansion project by transferring from various funds
6	347-39271	Public Facility, Transfer in from Water Operation	10,000			Transfer in for Corp Yard Expansion project
6	640-42231-5900	Sewer Operation, Contract Services		(10,000)	10,000	Reduce contract services to transfer out funds to Public Facility Fund
6	640-49222-5900	Sewer Operation, Transfer to-Public Facility		10,000		Correct distribution of charges for the Corp Yard Expansion project by transferring from various funds
6	347-39261	Public Facility, Transfer in from Sewer Operation	10,000			Transfer in for Corp Yard Expansion project
6	653-86360-8120-606093	Water Replacement, Construction		(10,000)	10,000	Reduce construction to transfer out funds to Public Facility Fund
6	653-49222-8120	Water Replacement, Transfer to-Public Facility		10,000		Correct distribution of charges for the Corp Yard Expansion project by transferring from various funds

**Summary of Mid-Year Budget Adjustments  
FY 2003/04**

**Exhibit A**

<b>Item</b>	<b>Account</b>	<b>Account Description</b>	<b>Revenue Increase (Decrease)</b>	<b>Appropriation Increase (Decrease)</b>	<b>Budgeted Fund Balance (Decrease)</b>	<b>Explanation</b>
6	347-39273	Water Replacement, Transfer in from Water Replacement	10,000			Transfer in for Corp Yard Expansion project
6	740-42510-5150	Building Maintenance, Building Improvements		(54,000)	54,000	Reduce building maintenance, improvements, to transfer out funds to Public Facility Fund
6	740-49222-5150	Building Maintenance, Transfer to-Public Facility		54,000		Correct distribution of charges for the Corp Yard Expansion project by transferring from various funds
6	347-39224	Public Facility, Transfer in from Bldg Maint Fund	54,000			Transfer in for Corp Yard Expansion project
7	317-49222-8055	Redevelopment Agency, Transfer to-Public Facility		24,961		CCC construction costs to be paid by Redevelopment Agency
7	347-39238	Public Facility, Transfer in from Redevelopment	24,961			Transfer in for CCC construction costs paid by RDA
8	347-86360-8056-227000	Public Facility, Construction		(822,142)		Reduce budget for Library and post budget to Redevelopment Fund
8	317-86200-8055-227000	Redevelopment, Construction		822,142		Budget for Library project in Redevelopment Fund
		<b>Total</b>	<b>\$204,392.90</b>	<b>\$956,190.80</b>	<b>(\$751,797.90)</b>	

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL,  
SPECIAL REDEVELOPMENT AGENCY, AND  
MORGAN HILL FINANCING AUTHORITY COMMISSION MEETING  
MINUTES – FEBRUARY 4, 2004**

**CALL TO ORDER**

Mayor/Chairman/President Kennedy called the special meeting to order at 6:03 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency/Commission Members Chang, Sellers, Tate and Mayor/Chair/President Kennedy  
Absent: Council/Agency/Commission Member Carr

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary/Commission Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**WORKSHOP**

**1. REVIEW OF REVISED DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) FOR THE INSTITUTE GOLF COURSE AND MATHEMATICS CONFERENCE CENTER**

Mayor Kennedy advised that the Council would not be taking action this evening as this evening's meeting will be used by the Council to gather information, hear reports and receive public testimony. He indicated that the Council would be discussing and taking action on the EIR at a future meeting. He encouraged members of the public who would like to address the Council this evening to submit comments in writing.

Planning Manager Rowe presented the staff report and addressed the following issues:

- Geology and soils. He indicated that the impacts associated with this section relates to increased erosion and the potential for landslide or lurching during periods of heavy rains. He indicated that the geotechnical analysis prepared did not fully address the entire site. Mitigation measure: prepare a more complete geotechnical report. He indicated that this is an area where the applicant does not agree as they believe that they have prepared two studies, to date, that adequately address this issue.

- 
- **Vegetation and Wild Life.** He indicated that the EIR identified that the project site contains habitat for the California Red Legged Frog which is listed in the federal endangered species. There is also a special status listing for the Tiger Salamander and the Western Pond Turtle. He indicated that two mitigation packages were presented in the EIR. He stated that mitigation package 1 is new and is a variation of the alternative mitigation which the applicant had proposed and is mentioned in the original draft EIR. This package involves the purchase of replacement habitat of approximately 51.2 acres (2-1 replacement as recommended by the U.S. Fish and Wildlife Service). He indicated that the applicant has agreed to comply with this mitigation measure. The second deals with managing the predatory bull frogs and other species through surveys as well as annual draining of the ponds on site. He stated that there is not an agreement by the applicant on this particular matter as the surveys completed to date have identified only one single bull frog on site. In the applicant's conversation with the Fish and Wildlife Service, they did not require the drainage of the pond(s) to remove one frog. He stated that the water quality setback that comes in this area as well as the hydrology and water quality section would increase the buffer areas to 50-feet adjacent to the creek and 25-feet elsewhere. He indicated that the applicant feels that based on their sampling of surface water there is not a need to provide greater setback from the creek. Another part of mitigation package one is the requirement to restore riparian habitat within the buffer areas along the creek. He indicated that the applicant has agreed to provide this mitigation.
  - **Mitigation package 2** was a mitigation in the original EIR which establishes a uniform 200-foot buffer around all creeks/breeding ponds. He indicated that this is a mitigation measure that the applicant does not agree with. He stated that mitigation measure 1 is an alternative. This is a component of package 1 that the applicant has agreed to perform and would follow through with.
  - **Hydrology and water quality.** He indicated that this is the most extensive area of where there are impacts identified and mitigations proposed. He stated that the impact areas include offsite flooding, soil erosion, water quality, nitrogen loading, pesticides and herbicides, lake water discharge associated with draining the water ponds annually, domestic water supply, high nitrate levels that would preclude the use of well waters for domestic consumption and fire protection. He said that the mitigation would involve redesigning the ponds to provide storm water detention. The applicant, in testimony before the Planning Commission, indicated that the ponds are currently designed to provide the detention capability and therefore does not feel that it is necessary to redesign them. Following are recommended mitigation measures: 1) applicant to provide hydrology analysis to show that there is sufficient capacity in the ponds to serve this purpose. 2) Elimination of the outflow of Pond D to Foothill Avenue. He indicated that the applicant does not believe that this is necessary because the pond is not currently being used for storm water detention. 3) Obtaining a permit from the Regional Water Quality Control Board and the preparation of an erosion control plan. He indicated that the applicant has agreed to this mitigation. 4) Mitigate the non point source run off. He stated that the applicant has agreed to this mitigation. 5) Nitrogen control plan. The applicant has agreed to this mitigation measure. 6) Water quality setback. He stated that the applicant does not believe that this mitigation is necessary. 7) The applicant agrees to a chemical control application. 8) Monthly sampling and reporting is also agreed to. 8) The applicant does not deem the annual draining of the pond for

---

additional storm capacity necessary because they believe that it is sufficient as presently designed. 9) The applicant has agreed to connect to the public water system to address the domestic water supply and the fire supply storage. 10) Water supply and ground water depletion. He stated that the report indicates that given the amount of irrigated surface areas and the amount of water required, the project may have an impact to the ground water supply, lowering the water table. He said that the mitigation would be: 1) reduce the irrigated turf area to 55-60 acres; or 2) complete a more detailed groundwater investigation that would determine whether the amount of water being drawn is not adversely affecting the groundwater levels. He stated that the applicant is not supportive of mitigation 1 or 2 as they believe that they have sufficient data to show that they are not adversely affecting ground water supply. Also, the cost of completing a more detailed study is something that they have a concern with. He indicated that the applicant agrees with a third mitigation; researching the use of recycled water to minimize the amount of usage of ground water supply.

Mr. Rowe indicated that the above summarizes the substantive changes to the EIR and the applicant's agreement/disagreement with the identified mitigation measures. He stated that the comments of this meeting and those received during the review period will be incorporated into the final EIR. Along with the final EIR, staff will be preparing a mitigation monitoring plan that will address each of the areas. He stated that there will be public hearings scheduled before the Planning Commission and the City Council to approve the final EIR and the mitigation monitoring plan. The Council will need to certify the final EIR and adopt the plans under consideration, if necessary. He further stated that the applicant is requesting approval of a zoning amendment to establish a planned unit development (PUD) on the site. Staff anticipates that the EIR and the zoning action will occur at the same hearings. He introduced Michelle Yesney who would address the project's baseline conditions and the secondary impacts.

Michelle Yesney, vice-president with David J. Powers & Associates, indicated that she assisted City staff in the preparation of an EIR. She stated that the project that is the subject of this EIR is unusual in several respects. She said that the City approved grading for a 40-acre golf course and that a particularly difficult aspect of the project is that it was well under construction when the EIR began. She stated that substantial changes occurred to the site without the proper permitting while a 110-acre golf course was under construction. She stated that the document that was circulated in December 2003 evaluates the impact of a proposed project that was described in an application for a PUD zoning designation for the project site that was on file at the time with the City of Morgan Hill. She said that the evaluation was supplemented with information on environmental mitigations which Mr. Rowe has described and contained in a package of documents that were submitted to the City of Morgan Hill by the project proponent on March 3, 2003. She stated that these two documents constitute the bulk of the project description that is evaluated in the EIR. While various conversations were held during this time period of what the project might consist of, these documents were the only official project description that were available for analysis.

Ms. Yesney said that in identifying the environmental impact of a specific proposal, it is first necessary to establish a baseline against which the impacts of the project should be measured. She stated that both CEQA guidelines and the courts identify the importance of establishing a baseline to which the project impacts can be compared. She said that it has been argued that the impacts of the project should be



compared to the physical conditions that existed on the same piece of property at the time that CEQA was enacted (e.g., 1970). She informed the Council that CEQA guidelines advise that an EIR should normally limit its examination to changes in the existing physical condition as they existed at the time the notice of preparation is published. In the unusual condition that a notice of preparation is not published, the existing conditions in the EIR should be those conditions that existed at the time that the environmental analysis began. She indicated that her firm was retained as the environmental consultant on May 22, 2000 to begin the EIR. She stated that the golf course was partially constructed at that time and that the notice of preparation for the project was published on June 19, 2000. While changes have occurred on site since that time, she stated that virtually the entire 110-acre golf course site was graded at that point. She said that the purpose of CEQA is to inform decision makers and the public about potential affects, especially environmental affects, identify ways that environmental damage can be avoided before it occurs, prevent significant unavoidable damage to the environment, and to disclose to the public the reason why a government agency approved a project if significant environmental affects were involved. She said that based on these facts, it is clear that a project's impact must be accurately characterized in terms of what the immediate and real impacts will be. Since the existing golf course was mostly constructed at the time the notice of preparation was circulated, the baseline conditions used for evaluating the project's impacts is the golf course itself.

Ms. Yesney indicated that the City of Morgan Hill is being asked to approve the existing golf course because the golf course, as it presently exists, was built without permits. Therefore, the City of Morgan Hill is being asked to choose from three options: 1) allow the existing golf course to remain; 2) require that parts of the existing golf course be changed; or 3) return all of the golf course that was not part of the original grading permit (40 acres) back to the condition that existed before the unpermitted grading was conducted. She stated that an EIR is supposed to describe the environmental impacts that result from a governmental action. She said that CEQA does not apply to private actions unless the private activity involves governmental participation, governmental financing or governmental approval. She informed the Council that it can approve the golf course or it can require that it be returned to its preexisting conditions. She stated that the direct impacts of approving the project, as proposed, would be to allow an existing golf course to continue to exist. As the golf course existed when the notice of preparation was circulated, most of the direct impacts identified in the EIR are impacts associated with the operations of a golf course and not impacts that resulted as part of the construction of a golf course (baseline condition). If the City does not require that most of the golf course be removed and the site returned to pre golf course condition, then an indirect result of approving the proposed project would be the impacts of not restoring the property to its pre golf condition.

Ms. Yesney informed the Council that the indirect impacts are identified in the section of the EIR entitled "Secondary Impacts." She indicated that one of the more unusual parts of the EIR is the Secondary Impact section. She stated that CEQA guidelines advise that the lead agency must consider not only the direct physical changes in the environment that would result from a project but also any "reasonably foreseeable indirect physical changes that would result." If the City does not require that the property be restored, then it is reasonably foreseeable that the environmental conditions that were present on the property would not be replaced. She stated that the draft EIR identifies what those conditions were based on an evaluation of historic documents, including the records provided by the project proponent. She said that the secondary impacts identified in section 3 of the draft EIR are

closely linked to the “no project: alternative which is required by law. She indicated that “no project” is defined by CEQA in the conditions that would exist if the project, as proposed, is not implemented. She stated that no project would restore all 110-acres not covered by the 1997 grading permit for 40-acres back to the conditions that existed. She said that on going impacts associated with maintaining a golf course would cease and that there would be a substantial amount of additional grading with associated impacts that would be needed in order to restore the site to its pre golf course conditions. She stated that the “no project” alternative would have impacts of its own.

Ms. Yesney summarized her comments by stating that the “no project” alternative would occur if the City of Morgan Hill were to decline to approve the proposed project and to require the property owners to restore 110-acres of the site back to its condition before construction of the golf course. The secondary impact section of the EIR identifies the impacts that would occur if the City does not approve the “no project alternative” and does not require the property owner to restore the site. She pointed out that there are other methods of reducing the secondary impacts other than restoring the site. At the time that the draft EIR was circulated, those alternative mitigations, discussed in the EIR, were not proposed. She stated that the EIR evaluated the project as it was understood to be proposed.

Steve Sorensen informed the Council that he was in attendance representing the American Institute of Mathematics (AIM). He addressed the purpose of the project: to solve math problems. He stated that math is the fundamental tool by which scientists and engineers improve quality of lives. He said that AIM solves problems in a unique way, through a team approach. He stated that the teams of mathematicians need a place to meet. Because of the success that AIM has had in solving math problems, the National Science Foundation has given them a grant to create a math conference center in Morgan Hill. He stated that the mathematicians and scientists who will come to this conference center are use to all amenities provided by a university. The amenities include libraries, lecture halls, food service and recreational opportunities, including a golf course. He stated that he used Stanford University as a model for this project as they are AIM’s closest geographically competitor. He said that it is AIM’s hope to create an environment similar to Stanford’s in Morgan Hill so that they can attract the best mathematicians and scientists in the world. In addition to their focus on research, he stated that AIM has implemented outreach programs within the community. He stated that the current executive director, Brian Conrey, resides in the community and has been active in the “Math Counts” program in the local schools as well as the bay area Math Olympics and math circles. For these benefits to continue, AIM needs to build a math conference center in Morgan Hill. Therefore, AIM is requesting the approval of a PUD in order to build the math conference center. He stated that the EIR raises many issues regarding the site. Some of the issues are primarily legal issues and those issues typically involve the Endangered Species Act (e.g., California Red Legged Frog, Western Pond Turtle and the California Tiger Salamander). He stated that most of these issues have been resolved through an agreement with the U.S. Fish and Wildlife Service.

Mr. Sorensen stated that the issues that remain are the ones that he believes are most important because they are the issues that the public is concerned about. He indicated that he has distilled these down to four issues:

- Ground water depletion. He indicated that the current practice is to try and minimize the irrigation on site by using a weather station. They take the weather station input and feed it to a computerized irrigation control system which applies just the amount of water that the turf needs. On hot days, rather than using the full amount of irrigation, individuals hand water hot spots. He stated that the irrigation system has been subject to review by the Santa Clara Valley Water District and that the review provided a favorable result for the water system. In addition to this, AIM has had studies prepared by a local hydrology firm called Aquifer Sciences. They have found that the water table is not declining.
- Nitrates in ground water. He said that the valley, as a whole, is characterized by increasing levels of nitrates in the ground water due to the history of agriculture. Before AIM conducts fertilization, they take a sample of the soil and send it to a laboratory. In addition, AIM cuts samples of the turf/irrigation water and sends these off to the laboratory as well. Based on the analysis, AIM determines how much fertilizer the plants and soil need. He stated that AIM basis the fertilization on this information so that they do not over fertilize. He indicated that this process has also been reviewed by the Santa Clara Valley Water District and that it has been confirmed that their fertilization process is correct. In addition to this, AIM has taken samples of the water on site to see if they are contaminating the surface water on site with nitrates. He said that the surface water on site has lower nitrates than the water in the aquifer which would indicate that if the water seeped down into the aquifer, it would dilute the concentrate of nitrates. Regarding the test well that the Santa Clara Valley Water District keeps across the street from the project, he said that one of three wells in the region meets the nitrate level for the Safe Drinking Water Act.
- Pesticides in the ground water. He stated that AIM only uses approved products by the State of California. Before applying any of these products, AIM registers with the County. AIM uses licensed applicators to use these products and use state of the art equipment to do so; only keeping what is needed for the near future. He stated that AIM has taken numerous samples of surface water on site to see if any of the pesticides and/or herbicides are getting into the surface water. These samples have come back with results that show there are no pesticides contained in the water. He said that it is AIM's plan to prepare a chemical application and management practice guide for the site. He will forward a copy of the guide to the City of Morgan Hill, once completed.
- Flooding. In order to control flooding, he stated that AIM has reduced impervious surfaces (e.g., reduced roadways, parking lots and removed several of the structures on site). This results in having more permeable earth available to absorb rainfall. He said that they have drained all run off into three detention ponds that allow for settlementation before the water leaves the site and have limited the outflow from the property to one pipe that goes to the culvert located on Foothill Avenue. He stated that AIM has hired a consultant with expertise in hydrogeology of surface water and that this expert has drawn the conclusion that AIM has reduced the runoff from the site compared to pre project conditions. He stated that in 1999, AIM had one instance of local flooding attributed to a construction error. AIM moved the main entry to the middle of the property. When the apron was installed to connect Foothill Avenue to the property, a pipe

was not installed to provide continuity in the drainage culvert. Therefore, during the first rain, water came down the culvert and was blocked by the apron. The water crested the apron and stated that within a week, a pipe was installed in the culvert. He indicated that there have been no flooding issues since that time.

Randy Long, chief biologist, addressed the recent results of his monitoring work for pesticides, herbicides and other pollutants in the water. Because of the temporary use permit application, he increased the water sampling. He came up with months worth of data that he believes is evidential of what is taking place at the site with regard to pollution. He said that this has a lot to do with several of the conditions and mitigations that are proposed. Where he has found this evidence, he proposes slightly different mitigations commensurate with what he believes is taking place. He stated that he has not found the problem of the stated significant impact. He would like the draft EIR to treat the evidentials and come up with new conclusions about significance as he did not believe that impacts exist based on data. He indicated that Dr. Mark Jennings (special status species); Tom Neilly, Aquifer Sciences, (ground water data collection); and Dave Mattern (surface flooding issues) were in attendance to answer any questions that the Council or others may have.

Mayor Kennedy stated that the Council has received a letter and photographs from area residents (Mr. & Mrs. Matulich) expressing concern about flooding. The letter suggests that the drainage to Foothill Avenue be eliminated. He requested that it be explained how it is proposed to deal with this issue.

Mr. Long responded that he met with Mr. And Mrs. Matulich to discuss their concern. He agreed that the Matulich family unfortunately have a flooding problem and that he commensurates with them. However, the problem is that there is no conveyance along the ditch. Therefore, the water runs through the property on Foothill Avenue and then floods several properties. He clarified that flooding is not being caused by the golf course and that the Matulichs realized this fact after looking around at the slopes and other information.

Mayor Kennedy inquired as to the feasibility of using recycled water.

Mr. Long stated that the use of recycled water largely depends on what is available. He said that the issue is the installation of a pipeline and feeding it through the property. He stated that he has not investigated all of the circumstances at this point but that he is willing to look at this as an option.

Mayor Kennedy stated that there was discussion at one time about the possibility of piping recycled water from the wastewater treatment plant from SCRWA or the possibility of using a skimming facility with local treatment.

Director of Public Works Ashcraft informed the Council that the potential to use recycle water exists. He indicated that the City shares the wastewater treatment plant with the City of Gilroy. He stated that the cities generate more wastewater than they are able to recycle. He indicated that the Santa Clara Valley Water District is near completing of a plan that looks at wastewater reuse for the entire area and that it will show the potential for serving Morgan Hill. He said that there is a potential for piping recycled water from the SCRWA plant six miles uphill with pumping facilities. However, it will be

very expensive to construct both the piping and pumping facilities. He indicated that the plan will also look at the possibility of a plant; taking an area in the city and building a package treatment plant specifically for the reuse of water. He said that this could be another potential reuse of wastewater. He stated that this study will probably be finalized within the next six months.

Council Member Chang stated that she was not clear about the ground water nitrate. She said that according to the information provided, it is being stated that the laboratory analysis of water samples taken from the site indicate that there is low nitrate. She requested that additional information be provided.

Tom Neilly, Aquifer Sciences, indicated that water is pumped from the aquifer from the ground into irrigation lake/ponds. He stated that he tested ground water as well as the surface water in the pond. He said that there is a difference in concentration of nitrates. He stated that the nitrate concentration is somewhat lower in the ponds. He said that he is seeing consistent patterns as far as the nitrate concentration from monthly samples that commenced in August 2003 to the current month. He indicated that there is a mechanism of de nitrification occurring in the ponds. He said that it is not well understood what the mechanism is but that the sampling results are showing consistently lower levels. He informed the Council that water is pumped from the wells and into pond D. The water has a residence time in the pond and then pumped out on demand from the pond and distributed for irrigation. He indicated that it is ground water that has a residence time in the lake for a period of time.

Mayor Kennedy inquired whether in a worse case scenario, when there is a need to irrigate at the maximum level for a sustained period of time, would it deplete the irrigation pond so that whatever bio degradation of the nitrate that is occurring would still be allowed to continue. As an alternative, would all of the water in the pond be depleted and result in the loss of the capability for nitrate reduction.

Mr. Neilly responded that he was not sure if the answer to this question is known at this point in time.

Mayor Kennedy indicated that he has several speaker cards from individuals wishing to address the Council this evening. Therefore, he would be limiting comments to 2 minutes per person in the interest of time. He noted that the Council has a regular agenda scheduled for 7:00 p.m. He suggested that the Council continue with this workshop, followed by the regular meeting.

Mayor Kennedy opened the floor to public comment.

Brian Conrey, Executive Director of AIM, stated that AIM would like to relocate to Morgan Hill and have their conference center located on the property under discussion. He indicated that AIM is a national science foundation funded math institute, one of six in the country. He stated that mathematicians visit weeks at a time and work on solving important mathematic problems. He said that AIM can assist Morgan Hill with mathematics, education and culture. He stated that AIM has begun the Math Counts program for middle school students and that he hopes to expand this program to make it a regional program. AIM would like to start high school programs such as the Math Circles programs and a number of other programs that would be beneficial to Morgan Hill.

Rich Gamboa informed the Council that he is a resident of Foothill Avenue and resides directly across the street from the AIM golf course project. He stated that he has no problem with a beautiful golf course located across the street as it may enhance property values. However, he expressed concern with the nitrate levels as the community does not need more drinking water problems associated with wells. He indicated that he had his well independently tested recently because of the perchlorate problem. It was found that he did not have the perchlorate problem but that it was found that the nitrate levels in his well had risen in the three-year period from when he first purchased his home. Although he does not have a lot of evidence, he sees that the three-year time frame shows that there is a trend for a nitrate problem. He felt that it would be important to monitor nitrate levels and not take the word of studies, especially those commissioned by the project proponent, in making a final decision in terms of how the mitigation plan and how individuals would be held accountable in years to come when the visible impacts are seen. He also expressed concern about the view, noting that the EIR did not mention anything about the visual impact problems. Also, construction noise is a big problem. He said that construction is already an inconvenience and that the roadway suffers impacts. Once construction begins on the building, there may be more inconvenience. He felt that the tree line is a problem in the sense that although it is nice to look at the hills, within 3 or 4 years, the views of the hills will be obstructed because of the height/density of the trees. He requested that consideration be given to this impact. He felt that there is a little bit of caution that needs to be taken in terms of making sure that the project mitigations are enforced.

Dr. Helen Moore, associate director of AIM, addressed the value that the Institute and what it would bring to this community. She works on disease models such as leukemia and HIV. She addressed AIM's commitment to women and minorities.

Dr. John Howe, president of the Santa Clara Valley Mathematics Association and mathematics teacher at Presentation High School, indicated that AIM has become a positive force in the community. He has participated in activities sponsored by AIM. He indicated that AIM members are willing to give talks and participate in activities without honoraria. He felt that AIM is a world class organization and the right organization for giving young people quantitative literacy in the 21<sup>st</sup> century.

Tatiana Shubin, professor of mathematics at San Jose University, addressed other mathematics programs for middle school and high school programs, indicating that these programs would not be possible without the support of AIM. It was her belief that Morgan Hill would benefit if AIM is allowed to establish in the community

Dr. Mark Jennings, Atlanta Resources, indicated that he worked on the turtle frog and salamander resources. He stated that he conferred with the Fish and Wildlife Services of the California Fish and Game and discussed how to best deal with the resources on the project. An agreement has been reached that would be to the benefit for all of the animals located on the site. He indicated that the frogs are doing reasonably well on the golf course and will do better once the mitigation is completed.

Brian Schmidt, Committee for Green Foothills, indicated that he has submitted comments on behalf of the Committee and the Santa Clara Valley Audubon Society after the deadline and were not included in the Council's packet. He distributed written comments for the record. He stated that this project has

gone thru a long and convoluted history. At the heart, the project was built illegally without permits and caused a lot of the problems that are seen today. He noted that everyone was talking about math, noting that the issue is not about math. He stated that the Committee or the Audubon Society have an objection to math research or math outreach. He indicated that the issue is the golf course. He did not believe that there was a need to cause environmental harm in order to do math. When you look at the EIR, there is a certain level of uncertainty in what is being discussed in the report. He felt that the applicant will suggest that the impacts described in the EIR are not as certain as the EIR indicates. However, he felt that this uncertainty goes back to the issue of the fact that AIM destroyed the environment first and then proceeded with the analysis. He stated that the issue for the City is to figure out how to handle this uncertainty. It was his belief that the burden of this uncertainty should be borne by the applicant who destroyed the evidence of the environmental impacts. In the case of certainty over the level of impacts and the amount of mitigation needed, it was his belief that the project proponent should mitigate to the maximum extent necessary. He noted that the EIR does not discuss whether the mitigations are feasible. He said that his indication of the EIR is that the mitigation measures are feasible. Therefore, there are no grounds or evidence in the record for the City to reject any of the mitigations on the grounds of infeasibility.

Kevin McCurley, mathematician/computer scientist, stated that he has traveled around the world to different conference centers to conduct math research. He addressed long term and short term world conference centers and their impact on mathematical research, indicating that the U.S. does not currently have such a facility. If Morgan Hill becomes the home of such a facility, it will be in good company with the other cities around the world. He stated that John Fry has been instrumental in building the Institute and funding the program for the Institute. He felt that the City should keep in mind that Mr. Fry has made contributions to society that are unusual and outstanding. These reflect on the character of the people behind the Institute.

Dana Ditmore, Foothill resident, indicated that he resides across the street from the new proposed math center. He stated that he is an engineer and that he has more of an educational interest in the project than he does as a resident. He felt that having the golf course across from him would enhance his property value. He was confident, from a technical stand point that the mitigations needed and recommended by a sound EIR statement can be used to address whatever valid concerns exist. He stated his support of AIM as it will offer the community opportunities and will be an asset to Morgan Hill and the San Martin community.

Joe Heinrich addressed the programs sponsored by AIM, including their outreach programs. He felt that AIM would present the opportunity for mathematics from the realm of the obtuse to the accessible. This is offered to our local area at a particular opportune time with the school funding crises. It is his hope that the Council will be able to resolve whatever conflicts exist and stated his support of AIM.

Tom Richardson, neighbor of the Institute, indicated that every time he has his well tested, the water contains nitrates. He felt that this is attributable to being surrounded by George Chiala farms. He did not believe that there has been a significant difference in nitrates in the water associated with the Institute. He felt that AIM would help his property value. He read a letter from his wife, Janet Redding, in support

of AIM and their programs. She did not believe that AIM would result in traffic impacts but would bring tourism dollars to Morgan Hill restaurants and other businesses.

Ken Wagman, math instructor at Gavilan College, stated his support of AIM and their student programs. The opportunities that AIM will give the community as well as the community college/students are incredible. It is his hope that the City will be able to mitigate the problems in order to make sure that nothing is done to damage the environment.

Craig Breon addressed the visual impacts associated with the project. He noted that the EIR concludes that the visual impacts are not significant and that he would argue to the contrary. He displayed photographs of the area, including the grove of trees that have been planted tight on a berm. He stated that the residents are impacted visually. He felt that the solution would be to remove some of the trees, reduce the berm, plant more oaks and chaparral rather than non native poplar or other trees. He felt that a lot needs to change to make the golf course friendly to the neighbors, wildlife, water quality and other natural resources located on the site. He did not believe that because the golf course has been built, the City has to accept it. He felt that the Council has the responsibility to state the right type of golf course to be built. He also felt that the Council has the responsibility to resolve conflicting testimony in favor of the environment and the neighbors because the neighbors are not responsible for the problems that have been created.

Denise Matulich, property owner adjacent to the golf course, stated that it is important to mitigate the potential significant negative impacts that the golf course is having on the community. She stated that San Martin residents surround the golf course and would like to maintain a harmonious relationship with Morgan Hill. She felt that it was the Council's duty to require that the project proponent mitigates all of the negative impacts that have been cited in the draft EIR. It was her belief that Mr. Long misrepresented what he believes was the outcome of the visitation of what caused flooding, noting that it was not a conclusion that the golf course was not flooding adjacent properties. It only concluded that the culvert located on the west side of Foothill Avenue was not adequate to take the flow of water that may be cresting over the road coming from the golf course. She indicated that the area has extensive flooding with five feet of flooding going into her garage, noting that it all comes from the rear of the property. She felt that the Council needs to carefully consider the water situation. She indicated that nitrate levels have risen in the past three years as well and that San Martin is faced with mitigating this problem because they are a small mutual water company. She felt that the ground water needs to be protected. She agreed that the views are severely impacted with the rows of trees.

Lori Mains, citizen of Morgan Hill and parent of a Math Counts student, stated her support of AIM as they are dedicated to youth and community outreach.

Donald Cowan, Department Math Chairman at Live Oak High School, stated his support of AIM as it will be an outstanding partner with Morgan Hill and the Morgan Hill Unified School District. He indicated that AIM will be offering tutoring, guest speakers, in service training for math teachers and outreach programs.



---

Darlene Day, Foothill Avenue resident, indicated that she resides directly across from the golf course. She stated that the trees have a visual impact to her view of the hillside. She expressed concern with nitrates in the water. She said that she has seen trucks go in and out of the facility with trees and equipment for the past seven years. She expressed concern with the impacts associated with the construction of the golf course and all the problems that have been occurring.

JJ Vogel, new resident to San Martin, stated that he was not here in support or against the golf course. He was in attendance to address the Council's duty to enforce the law. He said that math is the basis for just about everything one does and will do a lot of good for the community. However, he felt that a bad precedent would be set such that it sends a message that it is acceptable to break the law as you get rewarded at the end.

No further comments were offered.

Council Member Tate indicated that a lot of information was provided to the Council and that the Council has been studying this information for a period of time. He noted that the Council has received new information in terms of what AIM is willing to do and not willing to do. The Council has heard that there are some problems that may not be mitigated. He felt that the Council needs to determine what is left on the list and where there are disagreements in order to make sure that the City is heading in the right direction where disagreements exist.

Council Member Chang requested clarification about the flooding situation as there are conflicting stories about flooding.

Planning Manager Rowe responded that there is new information that the applicant has included in their response project this evening prior to the meeting. He stated that there was testimony provided at the Planning Commission meeting two weeks ago where the applicant felt that the off site flooding impacts were not longer apparent because the calculation showed that the amount of runoff from the site is at a level lower than it was prior to development of the golf course. Also, the ponds on the site have sufficient capacity for detention purposes. He noted that Mr. Sorensen indicated that the incident of flooding that occurred in 1999 was attributable to the fact that the culvert was not installed when the new driveway apron was put in and that it created a barrier. This resulted in water backing up, cresting over the roadway and flooding properties. He stated that staff will be looking at this information and including this information in staff's response comments in the final EIR. He clarified that David J. Powers & Associates will also be looking at this information and assessing it.

Council Member Chang noted that adjacent residents are stating that the nitrate levels have increased over the course of the past three years. She inquired whether the City has 10-years of records to determine the levels of nitrates in the area.

Planning Manager Rowe indicated that there are some monitoring wells in the area that have tracked nitrate levels over a period of time. He stated that this information has been reviewed by the consultant and is part of the basis for concluding that increase in levels of nitrate is a potential impact of the project.

Mayor Kennedy inquired what can be done to address the trees and the visibility from Foothill Avenue.

Planning Manager noted that this was not identified as a significant impact. However, the City has received testimony and comments that the trees are obstructing the views of the hills. He stated that staff will be evaluating the visual impacts of the trees. If determined that the impact is significant, staff would propose mitigation(s) as part of the mitigation plan. He said that mitigation may be undulating the height of the berm, establish view corridors and/or provide a continuous hedge row affect.

Council Member Tate inquired whether there were any other issues that were raised this evening such as the visibility issue that were not included in the draft EIR.

Planning Manager Rowe responded that it was his belief that all other concerns expressed were addressed in the EIR.

City Attorney Leichter clarified that there may be new information contained in the written material received this evening as well as the written comment period which may raise new issues. She recommended that Planning Manager Rowe address the process from this point on so that the Council and the public are informed of the process and timelines.

Planning Manager Rowe informed the Council that the public comment period has ended. However, the City has received requests from some of the responsible agencies for seven additional working days to submit their comments. He stated that it is staff's intention to honor this request. This would give Council members time to provide comments as well. He indicated that the EIR consultant would be receiving the information submitted and begin to prepare responses to them as well as to any other comments received. The final EIR, along with the mitigation monitoring plan, will be prepared in approximately four weeks. These documents will be presented to the Planning Commission for their consideration along with the zoning application for the PUD mentioned by Mr. Sorensen. A public hearing will be held at that time on the EIR with the zoning application. The Planning Commission will forward its recommendation on the adequacy of the EIR and its recommendation regarding certification to the City Council along with the mitigation monitoring plan. The Council will hold a separate public hearing to receive comments on the zoning action and the final EIR. He stated that the Council will be asked, at this point, to certify the EIR. Where there are significant impacts that cannot be fully mitigated, the Council will be asked to make findings of overriding consideration. He stated that there is one area of concern that cannot be fully mitigated contained in the cumulative section: the loss of agricultural land. Therefore, at a minimum, the Council will have to make findings relative to this impact. He said that public benefits of the project can be cited as findings for overriding this particular impact.

City Attorney Leichter further clarified that the next step is for staff to take all the comments, indicating that the comment period has been extended for the agencies who have requested additional time to submit their comments. The consultant will take these comments and prepare responses to them. These responses will go into the text of the final EIR so that everything is accounted for. She said that the final EIR document will go on to the Planning Commission and then to the Council.

Planning Manager Rowe indicated that it would take approximately four weeks to incorporate comments into the final EIR. However, it is a function of the nature of the comments. If the City receives significant substantive comments that require further review and investigation, this may result in taking a longer period of time to prepare the final EIR. He noted that the City received a number of studies as part of the applicant's comment letter (e.g., drainage study analysis, surface water sampling information) and that all this information has to be reviewed by the consultant. Therefore, staff cannot give the Council an exact turn around time as it is a function of all of the comments received.

City Attorney Leichter stated that to the extent that there is significant new scientific information in either of the reports mentioned by Planning Manager Rowe or as the consultant and the City goes through the visual impact analysis, it is determined that it is a significant impact, the City may have to recirculate the EIR for comments. However, staff will not know whether the EIR will need to be recirculated until it goes into the analysis in the next couple of weeks. She indicated that recirculation of the EIR would require an additional 45-day review period.

Council Member Tate noted that Ms. Yesney presented a report on the EIR, stating that it is not a typical EIR where you have a pre existing condition because the pre existing condition was taken away. He inquired how this would affect the EIR that the Council is being asked to certify.

City Attorney Leichter indicated that the significance of Ms. Yesney's discussion deals with the conditions that were analyzed in the EIR. She concurred that nothing about the EIR was normal as the City was dealing with a project that had already been substantially constructed and that this is a very unusual situation. She clarified that the project is the golf course and that the Council would be looking at the impacts of the golf course. However, if the City does not require the golf course to be removed and the land be reverted, then there are secondary impacts from allowing the golf course to remain. This is when you need to go back to the pre existing condition because these are the foreseeable environmental affects that have not been documented or analyzed. She stated that staff had to go back and look at the pre existing conditions to account for the secondary impacts.

Planning Manager Rowe stated that if the Council takes what exists on the site at this time and approves it as it is, there are secondary impacts identified in the EIR associated with this. He said that there are mitigation measures proposed in the document that would reduce those impacts to a less than significant level with the exception of the loss of agricultural land.

Mayor Pro Tempore Sellers indicated that he worked on a former use of the site when he was younger. Therefore, he has knowledge of the site. He said that the impacts on the site in the early/mid 1970s were different. He said that one of the impacts referenced in several of the letters was traffic impact. In any given Sunday in the 1970s, you would have bus loads of individuals and cars visiting the site. He noted that there was nothing of this nature proposed with this use. However, there was some reference made to disallowing any special event or other use on the site. He indicated that he did not see a response to this comment. He inquired whether there has been discussion about special events being held on the site.

Planning Manager Rowe stated that it was his belief that Mayor Pro Tempore Sellers was referring to the charity golf tournaments reported in the media. He said that the City needs to establish a baseline

and a project description. This would result in allowing the project to be evaluated at this baseline. At this point, there is no discussion on the types of activities that might generate additional traffic. Therefore, the action on the PUD zoning application will include a specific recommendation that such events were not allowed, not because the City is opposed to the uses occurring, but because they have not been evaluated in the EIR. He stated that there would be a need to supplement or prepare a subsequent analysis to look at traffic impacts that might be associated with conducting such events. Once there is an opportunity to study, evaluate and mitigate impacts associated with a use, such activities could be allowed on the site.

Council Member Chang inquired whether the secondary conditions were looked at with this condition in mind.

City Attorney Leichter stated that she understands that the concern deals with the charity tournaments to be held on site and results in expanding the traffic use more than what exists today. She said that this has not been analyzed with this draft EIR and is not part of the project description. If the applicant does intend to have a charity golf tournament, they would have to apply for a conditional use permit and that there may be further environmental review required for other uses.

Mayor Kennedy inquired whether the prior owner's use of the facility as a restaurant and golf activities in the zoning still applies to the site.

Planning Manager Rowe responded that the conditional use permit granted for the Flying Lady Restaurant expired because of the length of time the use was inactive.

Ms. Yesney stated that had the site been left as it was when the first grading permit was requested with the restaurant building and all of the other uses in place, the project would have assumed a much higher base line. She said that it is frequently the case that she will prepare an EIR on an existing development with the buildings vacant and used them as background conditions for the baseline against which the project's impacts were evaluated. The traffic associated with existing, viable occupyable buildings could happen at any moment independent of whether or not a new project is approved. It was her understanding that the occupiability of the Flying Lady Restaurant building was under some question because of damage that had occurred. In addition, nothing had occurred on various parts of the site for some period of time. She indicated that this information was relayed to her when she was first retained in 2000. She said that what is generally the case with most conditional uses is that if the use laps for a substantial period of time, they are no longer valid. This is what she understood to be the case in this situation. She stated that most of the site had been regraded and replaced. She noted that a restaurant building exists but has not been used for a lengthy period of time prior to when she began the EIR analysis.

City Attorney Leichter clarified that the restaurant building had been red tagged because it had structural beam problems and could not be reused as a restaurant.

Planning Manager Rowe further clarified that the conditional use permit issued in 1981 expired after the use had been discontinued for a period of six months. The building had structural damage attributable to

termite infestation, had been red tagged and that it is an uninhabitable structure to this date. If an individual wanted to reopen a restaurant, they would have to apply to the City for a new conditional use permit and receive permits to renovate and reconstruct the building. Staff would evaluate the environmental impacts associated with the reestablishment of a restaurant at that level of activity on the site even though the property had been previously entitled to the use in years past. If the baseline is more intensive, it may trigger the need for environmental review. As the golf course was allowed to sit vacant for several years, AIM was required to prepare an environmental assessment to reuse the site as a golf course. Staff required an environmental assessment and issued an environmental determination and negative declaration on the reconstruction of the golf course in the location where it existed. In response to Mayor Pro Tempore Sellers' inquiry, he indicated that impacts addressed by individuals associated with the golf course would be addressed in the course of preparing the EIR to a significant degree.

Council Member Tate disclosed that he toured the golf course facility approximately 1.5 weeks ago with Mr. Long and Mr. Sorensen.

Mayor Pro Tempore Sellers and Mayor Kennedy stated that they also took the tour as well.

**Action:** The City Council **Received** Applicant and Staff Presentations and Public Comment and Provided Comment on the Revised Draft EIR.

The Council concluded the workshop at 7:55 p.m.

***City Council and Redevelopment Agency Action***

**CLOSED SESSIONS:**

**1.**

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)

Number of Potential Cases: 2

The closed session items were deferred to a future meeting.

## SILENT INVOCATION

## PLEDGE OF ALLEGIANCE

Mayor/Chairman/President Kennedy led the Pledge of Allegiance.

## PROCLAMATIONS

Mayor Kennedy presented Tiffany Shyuan and Derek Chan, Co-Presidents of the Live Oak School Chapter of FBLA, with a proclamation declaring February 8–14, 2004 as *National Future Business*

---

*Leaders of America Week.* Ms. Shyuan and Mr. Chan identified community/service activities that is conducted by the FBLA membership.

### **CITY COUNCIL REPORT**

Mayor Pro Tempore Sellers reported the he serves on the Legislative Subcommittee of the City Council. He said that one of the biggest issues faced by the Legislative Subcommittee and the City Council was the Patriot Act and whether or not it had an impact on the local community. He said that the degree to which larger issues are being dealt at the state and national levels will directly impact Morgan Hill. He stated that in recent weeks, the Subcommittee has grappled with several of these issues that are coming from Sacramento. He said that there are two other issues that have taken place recently that will have a direct impact on the community: 1) At the state level, the City is starting to realize that there will be a reduction in some of the funding that it has relied upon for community service projects. This will cause a re tooling of these projects either be deferring them, trying to find other funding resources or they will not get done. He said that the City's general fund is being impacted by the economy and State losses. He felt that the Council needs to continue to do a good job in pointing out to the community that these losses have real impacts on the community and what these impacts are. 2) The federal government recently announced that the budget being proposed by President Bush for consideration by the Congress is expected to eliminate funding for a project the City has been pushing for well over 20-years and the City started to make headway a few years ago known as the PL566 project. He said that the impacts to the community are significant because of flood control issues that occur through the core of the community, particularly in some of the lower income areas of the community. The residents or landlords have to carry flood insurance which raises the cost of housing through the core area. He felt that it is important for individuals to be aware that when the community sees things happen at the federal level one does not believe that they will impact local projects. However, every family that has to pay \$500 or more every year for flood control insurance because the City is not able to mitigate the flooding problem needs to keep this in mind that these are direct impacts to the local community. He stated that there were four other issues that the Subcommittee reviewed. He stated that there are three bills that are before the legislature that would be extension of current bills and that the Subcommittee is recommending Council support of these: 1) AB1224 (Diaz) amends Megan's law and provides increased access to the sex offender data base via the internet; 2) AB1466 (Koretz) a statewide program entitled "Don't Trash California" that would direct state agencies to collaborate in their litter prevention effort; and 3) SB1087 extends the "Safe Route to Schools Program." He noted that there are four major propositions on the March 2, 2004 ballot. Although the Legislative Subcommittee saw potential impacts on all four of the propositions, the Subcommittee did not see the kind of impact that could be discerned on the community to take a position at this time.

### **CITY MANAGER REPORT**

Assistant to the City Manager Dile indicated that she did not have a City Manager's report to present this evening.

## **CITY ATTORNEY REPORT**

City Attorney Leichter stated that she did not have a report to present this evening.

## **OTHER REPORTS**

## **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

J.J. Vogel stated that he was impressed with the Morgan Hill Community and the City's growth measure. He noted that the restaurant use did not break the law but that the golf course did. He inquired why the Council allowed the golf course use to continue when they broke the law. Does this mean that if he wanted to build a use that would be good for the community, but breaks the law, he would be allowed to get away with it? He requested that Council members respond to his questions at the next meeting.

No further comments were offered.

## ***City Council and Redevelopment Agency Action***

## **CONSENT CALENDAR:**

Mayor Kennedy requested that item 16 be removed from the Consent Calendar as he resides within 500 feet of the project.

**Action:**        *On a motion by Mayor Pro Tempore Sellers and seconded by Council Member Chang, the City Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Items 2 - 15, as follows:*

2.     **SUBDIVISION, SD-03-15: EAST CENTRAL-WARMINGTON**  
**Action: Took No Action,** *Thereby concurring with the Planning Commission's Decision Regarding Approval of the Subdivision Map.*
3.     **WATER RATE SURCHARGES**  
**Action: Adopted** *Resolution No. 5766, Revising Monthly Water System Fees.*
4.     **2003-2004 CITY WORKPLAN, SECOND QUARTER UPDATE**  
**Action: Accepted** *Second Quarter Update of the 2003-2004 Workplan.*

5. **REIMBURSEMENT FOR STORM DRAIN IMPROVEMENTS BY QUAIL CREEK PHASE I (TRACT 9427)**  
*Action: 1) **Approved** Appropriation of \$103,881 from Current Year Unappropriated Storm Drain Impact Fee Fund to Fund this Reimbursement; and 2) **Authorized** the City Manager to Execute the Reimbursement Agreement on Behalf of the City.*
6. **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS FOR TRACT 9426, CENTRAL PARK PHASE V**  
*Action: 1) **Adopted** Resolution No. 5767, Accepting the Subdivision Improvements Included in Tract 9426, Commonly Known as Central Park Phase V; and 2) **Directed** the City Clerk to File a Notice of Completion with the County Recorder's Office.*
7. **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF HATCH & PARENT**  
*Action: 1) **Authorized** the Appropriation of \$106,000 From the Unappropriated Water Fund Balance into Account 650-42230-5710 to Fund the Continuing Legal Services of Hatch & Parent; and 2) **Authorized** the City Manager to Execute a Second Amendment to Agreement with the Law Firm of Hatch & Parent.*
8. **AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF ENDEMAN, LINCOLN, TUREK, & HEATER**  
*Action: **Authorized** the City Manager to Execute an Amended Agreement with the Law Firm of Endeman, Lincoln, Turek & Heater.*
9. **APPROVE PURCHASE ORDERS FOR THE TENANT IMPROVEMENTS FOR THE NEW POLICE FACILITY – GENERATOR**  
*Action: **Authorized** the City Manager to Approve a Purchase Order in the Amount of \$54,578.34 to Spiess Electric for the Generac Power System Generator Purchased for the Tenant Improvements at the New Police Facility.*
10. **APPROVE PURCHASE ORDER FOR THE FURNISHINGS, FIXTURES, AND EQUIPMENT (FF&E) FOR THE NEW POLICE FACILITY**  
*Action: **Authorized** the City Manager to Approve a Purchase Order in the Amount of \$12,920.00 to Sirchie Fingerprint Laboratories Inc. for the Furniture, Fixtures and Equipment (FF&E) at the New Police Facility.*
11. **APPROVE WATSON FURNITURE AS SOLE SOURCE VENDOR FOR THE UPGRADE OF EXISTING FURNITURE FOR THE NEW POLICE FACILITY**  
*Action: **Authorized** the City Manager to Approve a Purchase Order in the Amount of \$22,268.65 to Watson Furniture for Upgrades and Expansion of the Existing Dispatch Consoles for the New Police Facility (Portion of the Previously Approved FF&E Budget).*
12. **APPROVE PURCHASE ORDERS FOR THE TENANT IMPROVEMENTS FOR THE NEW POLICE FACILITY – SECURITY SYSTEMS**



---

**Action:** **Authorized** The City Manager to Approve a Purchase Order for the Design, Purchase and Installation of Card Readers, Closed Circuit TV, New Phone System, Fire and Security Alarm Systems Purchased for The Tenant Improvements At The New Police Facility, as amended.

13. **ADOPT ORDINANCE NO. 1652, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1652, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO SUBSECTIONS 18.76.130A8, 18.76.250C AND 18.76.250F OF CHAPTER 18.76 (SIGN CODE) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL ALLOWING CHANGEABLE COPY SIGNS FOR MOVIE THEATERS. (ZA-03-16: CITY OF MORGAN HILL-TEXT AMENDMENT/SIGN CODE).**

14. **ADOPT ORDINANCE NO. 1653, NEW SERIES**

**Action:** **Waived** the Reading, and **Adopted** Ordinance No. 1653, New Series, As Amended, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING SECTION 18.54.200(Interim Use Permits) TO CHAPTER 18.54 (Condition and Temporary Use Permits) OF TITLE 18 (ZONING) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL REGARDING PERMITS FOR INTERIM USES.**

15. **MINUTES FOR SPECIAL CITY COUNCIL MEETING OF JANUARY 14, 2004**

**Action:** **Approved** the Minutes as Written.

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member Chang, the City Council/Agency Board, on a 4-0 vote with Council/Agency Member Carr absent, **Approved** Consent Calendar Items 17 and 19 as follows:

17. **MINUTES FOR JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF JANUARY 16, 2004.**

**Action:** **Approved** the Minutes as Written.

18. **MINUTES FOR JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF JANUARY 17, 2004.**

**Action:** On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member Tate, the City Council/Agency Board **Approved** the Minutes as amended.

---

19. **MINUTES FOR JOINT SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING OF JANUARY 21, 2004.**

**Action:** *Approved the Minutes as Written.*

***City Council, Redevelopment Agency, and Morgan Hill Finance Authority Commission Action***

**CONSENT CALENDAR:**

Council Services and Records Manager Torrez requested that Item 20 be removed from the Consent Calendar to incorporate an amendment to pages 2 and 3. The amendment is to reflect that the appointments to the ARB are for terms to expire on June 1, not March 1.

20. **MINUTES FOR JOINT SPECIAL AND REGULAR CITY COUNCIL, SPECIAL REDEVELOPMENT AGENCY, AND MORGAN HILL FINANCE AUTHORITY COMMISSION MEETING OF JANUARY 14, 2004.**

**Action:** *On a motion by Mayor Pro Tempore/Vice-chair Sellers and seconded by Council/Agency Member/Financing Authority Commissioner Chang, the City Council/Agency Board/Financing Authority, on a 4-0 vote with Council/Agency/Financing Authority Member Carr absent, Approved Consent Calendar Items 20, as amended.*

***City Council Action***

**CONSENT CALENDAR:**

Mayor Kennedy excused himself from the dias.

**Action:** *On a motion by Council Member Tate and seconded by Council Member Chang, the City Council Approved Consent Calendar Items 16 as follows:*

16. **ADOPT ORDINANCE NO. 1651, NEW SERIES**

**Action:** *Waived the Reading, and Adopted Ordinance No. 1651, New Series, As Amended, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO ORDINANCE NO. 1599, NEW SERIES, AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION MP-01-07: SHAFER – BAMDAD TO INCORPORATE A ONE-YEAR EXTENSION OF TIME FOR THE SEVEN, PHASE I UNITS AND A ONE-YEAR EXTENSION OF TIME FOR THE EIGHT, PHASE II UNITS OF THE 15-UNIT DEVELOPMENT. (APN 728-10-005)/(DAA-02-07: SHAFER – BAMDAD): AYES: Chang, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr, Kennedy.***

Mayor Kennedy resumed his seat on the dais.

## ***City Council Action***

### **PUBLIC HEARINGS:**

#### **21. DEVELOPMENT AGREEMENT, DA-03-14: EAST CENTRAL-WARMINGTON – Ordinance No. 1655, New Series**

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the public hearing. No comments being offered, the public hearing was closed.

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council, on a 4-0 vote with Council Member Carr absent, **Waived** the Reading in Full of Ordinance No. 1655, New Series..*

**Action:** *On a motion by Council Member Tate and seconded by Mayor Pro Tempore Sellers, the City Council **Introduced** Ordinance No. 1655, New Series, by Title Only as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT AGREEMENT, DA 03-14 FOR MP 02-19: E. CENTRAL - WARMINGTON (APNs 726-20-003 & 726-28-048 through 052), by the following roll call vote: AYES: Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: Carr.***

## ***City Council Action***

### **OTHER BUSINESS:**

#### **22. RECONSIDERATION OF APPEAL APPLICATION AP-03-07: WEST MAIN-VIERRA**

Mayor Pro Tempore Sellers stated that he would be recusing himself from this item and excused himself from the Council Chambers.

Director of Community Development Bischoff presented the staff report, indicating that the Council heard the applicants request to overturn staff's decision to reject a Measure P application on January 14, 2004. After hearing all of the testimony, the Council directed the City Attorney to seek declaratory relief on the matter from the court. On January 21, 2004, Mr. Tichinin, the attorney for the appellant, spoke under public comment and requested that the Council reconsider its earlier action. As it was not an agenda item, the Council directed staff to place the item on the agenda this evening. He indicated that the question before the Council this evening is whether or not the Council wishes to reconsider its prior decision. Should the Council decide to reconsider its prior action, he recommended that the

---

Council direct staff to agendize reconsideration for the February 18, 2004 meeting. He did not believe that it would be appropriate for the Council to get into full discussion of reconsideration this evening.

Council Member Tate noted that it was indicated last week that there would be new information presented. However, he did not see new information included in the agenda packet. He questioned why the Council was being asked to reconsider its prior action.

Council Member Chang inquired whether a majority of the Council would be required or whether three votes would be sufficient to reconsider the Council's previous action.

City Attorney Leichter responded that the motion for reconsideration would be a minute order action and not a resolution which now requires three votes of the Council due to January 1, 2004 changes in State law. Therefore, a minute action could be approved with three votes.

Mayor Kennedy opened the floor to public comment.

Bruce Tichinin, attorney for the applicant, stated that the last time the Council heard this matter; he suggested that the intent set out in the text of the General Plan prevailed over the mistaken rendition on the map of the text. The City Attorney suggested that the text of Measure P adopting the mistake prevailed over the intent because of the original enactment of the Council as Measure P was a superior force and enactment of the people. He indicated that one of the neighbors suggested that the Council should have sympathy on her reliance of an error. The Council referred the matter to a court for declaratory relief at the request of the City Attorney. He requested that the Council set the matter for reconsideration based on the new grounds to be presented at the February 18, 2004 meeting. He said that the new matter that he proposes to raise at the re-hearing, if granted, includes the following: 1) Is this response to the City Attorney's otherwise correct statement that Measure P, even though it adopted a mistaken line, should prevail over the intended line contained in the text. He said that the doctrine of *diminimus*, or that the law disregards trifles, prevails over the language contained in Measure P. He stated that he expects to show the Council that the amount of open space at issue is a trifling matter and the Council should disregard the affect of Measure P that adopted the error because it deals with a trifling amount of extra open space. 2) The mistake in the line for the open space developed areas, around El Toro, adopted in the General Plan map was meant to be but technically could not be achieved as the 500 contour line called out in the text, in the general plan is so inconsistent from property to property all the way around Measure P as to be arbitrary and capricious. This denies individuals such as the applicant/appellant Howard Vierra equal protection of the law when it operates to take out developed uses of open space land. He indicated that Mr. Vierra would demonstrate the inconsistencies being discussed. 3) The neighbors' errors and fears are not good evidence on which the Council can base a decision on zoning matters as ruled under Supreme Court case of *Claybon vs. Texas* and *Del Monte Dunes vs. the City of Monterey*. He felt that the burden is such that the City Attorney has to demonstrate the reasoning behind her position that there is no inconsistency in the General Plan because her position is that "one equals two" which he suggests is logically inconsistent on its face. He said that the testimony of the Planning Director demonstrates that what was supposed to be one line actually ends up being two because the line called out in the General Plan text is a 500 foot contour line. He stated that the Planning Director could not faithfully, with the technology available to him, render the 500 foot line.

---

He felt that the two lines are supposed to be one line. He did not understand how it would be consistent to have two lines in different places representing what is to be one line.

Mr. Tichinin stated that the diminimus evidence that he would like to present refers to is in to the case of *Oats vs. Sacramento* held in 1978 (case 78 Cal 745) that holds that 3.4% or less of a geographical error invokes the rule that it is a trifling amount and that you disregard the affect of law that would otherwise apply. As to the equal protection argument, he stated that the rule is that equal protection guarantees that persons who are similarly situated for the purpose of a governmental regulation will be treated equally by it. He contended that this rule is violated by the General Plan map line because instead of following the 500 foot contour line, as it was supposed to, it jogs back and forth inconsistently and infrequently on the line. He noted that some property owners get more open space than they would have had on their parcels while others, like Mr. Vierra, get less. He did not believe that there was consistency from parcel to parcel and felt that this shows that it is arbitrary, capricious and does not treat people similarly.

Mr. Tichinin addressed the neighbors' errors and fears as not being good evidence. He cited the case of the City of Clayborn Living Center (473 U.S. 432, page 448). The ruling was that the court specifically rejected the legitimacy of relying on opposition to the home by neighbors. He quoted from this case as follows. "Mere negative attitudes or fear unsubstantiated by factors which are properly cognizable in zoning proceedings are not a permissible basis for treating a home for the mentally retarded different from apartment houses, multiple dwellings or the like." He did not believe that this was a basis for treating this application differently than it should have been treated had the line been drawn faithfully. He addressed one other ground, in addition to the diminimus comment, that being that Measure P adopts the mistaken line. He said that the City of Clayborn case holds to the equal protection right because it constitutional trumps the force of an initiative. He quoted that "it is plain that the electorate, as a whole by referendum, could not order city action violation of the equal protection clause. The City may not avoid that cause by deferring to the objections of some fraction of the body politic, thus, indirectly giving it the same affect." He contended that the referendum is the same as an initiative for purposes of the ruling because it comes from the people versus the City Council.

Council Member Tate stated that the Council is receiving legal arguments after the Council decided that it was going to seek declaratory relief to get the legal arguments in front of someone who can make a legal decision. The appeal back to the Council to reconsider is based on is what it tried to get away from. He did not understand the purpose of going through the appeal hearing at this time.

Mr. Tichinin indicated that he is suggesting that there are new grounds to which the Council has not heard the City Attorney object to. If the City Attorney does not state an objection, he suggested that the law places on the City Council a certain obligation to know these facts. He stated that it has been held, under some federal court of appeal and Supreme Court cases, that City Council members are supposed to know the laws just like police officers are required to know the law. He urged the Council to reconsider the appeal in the spirit of trying to make its way through the appeal. It was his belief that the Council could understand the logic of the legal points and that it has a certain duty to decide upon them. He said that he would be willing to go to court if it were not such an expensive proposition for the appellant and felt that it was unnecessary to do so. He felt that there was an alternative that the Council

can adopt. The Council could reconsider and rezone to make the line what it should have been. He stated that it would cost approximately \$25,000-\$50,000 to seek declaratory relief action. He suggested that this is an unnecessary burden when there is a less expensive alternative. He indicated that in the case of *Bob Lynch vs. Paulson/City of Morgan Hill* has cost his client over \$90,000 and that there is every indication that there is only a fair distance into this case. It was his hope that the Council would keep this consideration in mind.

Virginia Acton, a 68-year resident of Morgan Hill, indicated that the Acton family came to Morgan Hill in 1910. This was the time that the property in question was purchased and consisted of approximately 75 acres that went from the top of El Toro to Peak Avenue. In the 1970s, the family sold the property to which the library, city buildings and the Hidalgo development occurred. What is left is the property in question. She said that the neighbors are protesting against a development who are living on Acton property that was developed years ago. The Acton property also includes the 20 acre parcel which is the face of El Toro that is designated for preservation in open space in the City's General Plan. She requested that the Council permit the last Acton family member to tastefully develop the last developable parcel of family land at lower density and greater home value than the adjoining neighborhood. She indicated that she is contracting to sell her land to Mr. Vierra and requested that the Council grant Mr. Vierra's request for reconsideration of the appeal. She indicated that it is too much property and work for her.

Howard Vierra addressed the wholesale inconsistencies and misrepresentation to the public of what the open space directive was. It was his belief that the open space directive was that the open space was to be at the 500 foot line of El Toro. He felt that the map misrepresents open space in various areas of the City. He stated that individuals above the 500 foot line will be able to develop their properties because they do not have an open space overlay imposed on their property while he is not being allowed to develop above the 500 foot line unless the City seeks declaratory relief. He felt that the error was in both directions and that there will be other property owners who will be coming before the Council stating that a mistake was made that needs to be fixed. He felt that the City could have the equipment to represent the 500 foot line drawn correctly. He requested that the Council enforce what was approved at 500 feet. He felt that there were inconsistencies in both the zoning map and the general plan map that affect him adversely. He did not believe that interests are being dealt with equally. He felt that the open space was drawn wrong and has caused a lot of individuals to become upset. He requested that the Council enforce what was ruled through a public forum to set the line at 500 feet. He did not believe that there was a public process that allowed the line to be rendered further down below the 500 foot line, in some cases 350 feet. He requested that the Council not direct that he be put through the additional expense and time to enforce the law.

Colleen Fettig, Via Grande, indicated that she recently found that the property has been rezoned since she purchased her property. She did not know that the property had been rezoned until the issue was raised last week. She noted that Ms. Acton requested that the property be rezoned in 2001 and that the rezoning of the property happened to coincide with the General Plan. Therefore, notification was not given to property owners as it was listed in the Morgan Hill Times. She said that she found that the open space boundary is a zoning district line. She felt that there needs to be public discussion when you move a boundary. Had neighbors not seen stakes being laid out by surveyors, neighbors would not have

known of the development proposal before the Council. She did not believe that the map was drawn haphazard, nor does it appear to be an error or mistake. She felt that it was a straight line that was drawn from point A to point B. She stated that the line follows property lines and did not believe that a pencil mistake was made. The lines were drawn as approved zoning district lines and that she did not believe that the line should be redrawn. She felt that this is a legal matter that needs to go before the court as no one has discussed how lines should be resolved.

Monte Jensen, West Main, stated his support of the City Attorney's decision at the last Council session that it would be inappropriate to move the Measure P line. He stated his disappointment in attorneys trivializing the infringement of open space. He stated that it was his understanding that Mr. Tichinin was a strong advocate of establishing open space in Morgan Hill.

Jim Kavitsky addressed the open space line that is currently shown on the map, indicating that it was his belief that the line was in place for many years, but not for so many years that surveying technology was insufficiently advanced to place it with adequate precision. The fact that the line has been on the map for many years means that many individuals have been looking at the map and using it to make important decisions with regard to development or purchase real estate in Morgan Hill, including himself. He felt that it is a bad time to change the line after all these years for apparently no other reason than to maximize the development value of the land at a negative cost to surrounding homeowners. He indicated that most of the homeowners have no objections to the development of the property, but that they would like development to be within the original zoning guidelines. He did not believe that the amount of open space is a trifling or diminimus because it will have a drastic affect on how the property is developed in terms of open space with five acre lot sizes or higher density housing. This is critical to existing homeowners and is not a trivial issue. If the City is serious about preserving a green belt and open space within Morgan Hill, he did not believe that there was any place more critical that the City should hold the line than El Toro as it is the most prominent natural feature to the point that it is the City's logo.

Susan Berardini indicated that she read the minutes where Mr. Tichinin requested Council reconsideration. She read in the minutes that Mr. Tichinin articulated the changed circumstances to the fact that the neighborhood was going to agree and support the move to reconsider. She noted that the minutes also indicate that Mr. Tichinin had new case law and that the Council agreed to agendaize Mr. Tichinin's request for Council consideration this evening. She noted that Mr. Tichinin has cited case law and talks about equal protection. She stated that the Council has a City Attorney who can figure out these issues and that if there is a disagreement, the Council's previous action was appropriate. If there is a legal disagreement and there is a legal question, the Council should seek declaratory relief. She stated that this is an appropriate action and that there are no changed circumstances. She felt that Mr. Tichinin would like to make a legal argument to the Council and have the Council make a decision to avoid legal costs. Had the property been zoned properly, the homeowners would not be in attendance this evening. She suggested that the question requires declaratory relief as the Council is hearing legal arguments. The fears and errors as they were called by the neighbors are not fears and errors. She noted that the neighbors have sent a letter to the Council articulating the position of reliance on a general plan and an initiative such as Measure P. She did not believe that these were diminimus as it was an initiative voted

upon by the residents of the community. She stated that the neighbors' feelings are based on this reliance.

Mr. Tichinin indicated that nothing in the neighbors' letter indicate that they relied on the line in Measure P. He clarified that it was his expectation that the neighbors would want what the developer wants because it would be better for them versus smaller lots closer to them that would have to design under staff's rendition of the line. However, he felt that it appears that the neighbors want to stick with the nimbism position instead. He noted that the adjacent neighbors' letter states that every neighbor contacted thus far have voiced the opinion that the current/proposed plans for the development of the Acton property would be detrimental to the neighborhood and other citizens of Morgan Hill who seek to preserve El Toro. The letter also states that there is nothing in the General Plan or Measure P that precludes the designation of open space below the 500 foot elevation, only above. He said that there is nothing in the letter about any body having actually relied on this relatively imperceptable line on the map being different from when they voted on Measure P. He noted that Mr. Kavitski states that he relied on this line but that he does not tell the Council what it is that he perceives to be different about the low density impact to him compared to what the development would be based on the mistaken line. He indicated that the neighbors based a claim on reliance but that he did not believe that they have substantiated it. Therefore, it should not be considered by the Council as they have offered no proof of this. It was his hope that Ms. Bernardini was not stating that declaratory relief is an action it must take as a matter of law. He did not belief that this position was correct and that the Council would be advised by the City Attorney that it needs not seek declaratory relief. The Council may instead take the approach he is proposing if it so chose; this would be to set the line straight at future public hearings. Regarding Mr. Jensen's disappointment in what he perceives to be his change in position, he stated that he was disappointed that people who have the benefit of such open space on El Toro being preserved for them by his largely uncompensated work from the "Save El Toro Association" do not believe that he would still have the same integrity in terms of the impact of public view on El Toro as he did back then. He said that the development would interfere with a handful of individuals' views but only that and only out of their residences. He said that all of the true scenic value of El Toro from public places will not be impacted at all by this proposal.

No further comments were offered.

Council Member Chang indicated that following the last Council meeting on this issue, an individual stated that the Council "punted" on its decision. The Council did not make a decision on the matter and that it was going to allow someone else to make one for it; a smart move. She felt that today's decision is whether the Council will reconsider its prior decision to hear this case or not. She noted that in most other situations, the Council would hear the matter and render a decision. She indicated that this is the first time that she has seen the Council take a case to court. By not making a decision and asking a lawyer to spend \$25,000-\$30,000 to make a case in order to defend himself, she felt that the Council made a decision for the attorney; a decision of denial. She stated that she was of the opinion that the Council should hear the case and decide on the matter. It was also her opinion that instead of the Council making a decision, the Council is allowing someone outside of the City to make a decision.



Council Member Tate stated that his opinion has not changed from what he expressed earlier. He did not agree that the City Council has to make a ruling of a legal nature. He noted that there are supreme courts and courts of many justices that sit and have split decisions. The Council can make a decision and it may be the right decision of the law. He felt that the Council has to protect the City. He stated that at the last meeting he was in sympathy with the applicant because the City intended to use the 500 foot line but that it is not what could be ruled by somebody interpreting Measure P. Although he was sympathetic to the applicant, he felt that the Council should get the matter determined once and for all or it can cost the City more than \$25,000-\$50,000 with other actions taking place later from a legal stand point. He stated that he was still of the opinion that the City should seek declaratory relief. He inquired whether there was any new information that the City Attorney would like to share with the Council.

City Attorney Leichter informed the Council that it was her belief that a court would likely construe the provisions in this matter. It is the Council's decisions whether or not to seek declaratory relief because it may have policy reasons to do so. She felt that there is conflicting language between the open space goal and action 4.1 which contains the 500 foot line language. It was her belief that a court is likely to find that the open space goal will prevail because the action language about the 500 foot line can be reconciled and that they are not inclusive. However, there is a possibility that the Court would find in accordance with Mr. Tichinin. She said that this would be the debate before the court. She stated that a precedent exists as the Council has sought declaratory relief in the past (e.g., a hotel that was not paying its transient occupancy tax in a timely manner). However, this action is highly unusual. She clarified that the motion before the Council this evening is not the appeal. What is before the Council is whether it wants to hear the appeal. What Mr. Tichinin has brought forth are grounds he believes are reasons for the Council to reconsider. It was her belief that Mr. Tichinin has raised new grounds such as the diminimus argument and the trifling argument under civil code. He has also raised equal protection arguments. She stated that it is within the Council's discretion whether it considers these reasons sufficient to reopen this matter or whether the prior decision should stand. Should the Council want her to fully respond to these matters, she could do so. However, she suggested that it would be in the context of the appeal hearing itself and not this evening as it is a procedural issue before the Council. She indicated that she has spoken with Mr. Vierra and Mr. Tichinin and could initially respond to the issues raised this evening.

Mayor Kennedy noted that Mr. Tichinin raised the question of equal protection on the basis that the line location appears to be arbitrary. He indicated that he recalls being on the Planning Commission when the line was established and that it was not arbitrary. Therefore, he sees no new information that would cause him to want to change the vote he took last time.

**Action:**        *On a motion by Council Member Tate and seconded by Mayor Kennedy, the City Council **Confirmed** the previous action taken at the January 14, 2004 meeting to seek declaratory relief from the court. The motion carried 2-0-1 with Council Member Chang abstaining and Council Members Carr and Sellers absent.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

No items were identified.

---

**ADJOURNMENT**

There being no further business, Mayor/Chairman/President Kennedy adjourned the meeting at 9:35 p.m.

**MINUTES RECORDED AND PREPARED BY:**

---

**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY/  
COMMISSION SECRETARY**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: FEBRUARY 18, 2004***

**DA-03-11/ZA-03-14: SAN PEDRO-DICONZA**

### **RECOMMENDED ACTION(S):**

1. Open/Close Public Hearing
2. Approve Mitigated Negative Declaration
3. Waive the First and Second Reading of the Zoning Amendment Ordinance
4. Introduce Zoning Amendment Ordinance (roll call vote)
5. Waive the First and Second reading of Development Agreement Ordinance
6. Introduce Development Agreement Ordinance (roll call vote)

**Agenda Item # 19**

**Prepared By:**

**Associate Planner**

**Approved By:**

**Director of Community  
Development**

**Submitted By:**

**City Manager**

**EXECUTIVE SUMMARY:** The applicant is requesting approval of a Zoning Amendment to establish a precise Residential Planned Development for 6.6-acre site at the northeast corner of Butterfield Blvd. and San Pedro Avenue. The site is currently zoned R2-3,500 and the amended zoning would be R2-3,500 RPD. The RPD would apply to the entire site. The applicant is also requesting approval of a project development agreement for 24 single family homes for San Pedro Villas for Phases I, II, and III of the project.

In May 2003, the San Pedro Villas project received residential building allotments for nine units for FY 2004-2005, seven units for FY 2005-2006, and eight units for FY 2006-2007. A remainder parcel of 35,001 sq. ft. will be for the future Phase IV of the project. The project build out will be 32-units.

**Zoning Amendment:** The applicant is requesting approval for a reduction in lot size for three lots and a reduction in setback for five of the 32 lots. Due to the high cost of construction liability insurance for attached dwelling units, the applicant is proposing to use the recently approved modified setback configuration that will allow six-foot separation between the formerly attached units. The modified setback units are proposed for Phase I only. Attached to the ordinance are the modified setbacks for Phase I of the project. A mix of Single-Family attached and detached dwellings are proposed for the later phases of the development.

**Development Agreement:** Project development agreements are required as a formal contract between the developer and the City. The development agreement formalizes the commitments made during the Measure P process and the development schedule for the project. The development agreement for 24 allotments awarded in the 2002 competition has been completed and is attached as Exhibit A. The 2002 Measure P commitments and processing schedule have been included within the agreement.

The applications were reviewed by the Planning Commission at their January 27 meeting, at which time the Commission voted 7-0 to recommend approval of the proposed RPD and proposed development agreement as prepared. The Planning Commission staff report and minutes are attached for Council's reference.

**FISCAL IMPACT:** None. Filing fees were paid to the City to cover processing of this application.

**ORDINANCE NO. NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADOPTING A PRECISE DEVELOPMENT PLAN CHANGING THE ZONING FROM R2-3,500 TO R2-3,500 RPD ON A 6.6-ACRES LOT AT THE NORTHEAST CORNER OF SAN PEDRO AVE AND BUTTERFIELD BLVD. (APN 817-11-061, ZA-03-14: SAN PEDRO-DICONZA)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINS AS FOLLOWS:**

- SECTION 1.** The proposed zoning amendment is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The zone change is required in order to serve the public convenience, necessity and general welfare as provided in Section 18.62.050 of the Municipal Code.
- SECTION 3.** An environmental initial study has been prepared for this application and has been found complete, correct and in substantial compliance with the requirements of California Environmental Quality Act. A mitigated Negative Declaration will be filed.
- SECTION 4.** The City Council finds that the proposed RPD Overlay District is consistent with the criteria specified in Chapter 18.18 of the Morgan Hill Municipal Code.
- SECTION 5.** The City Council hereby approves a precise development plan as contained in that certain series of documents dated January 23, 2004 on file in the Community Development Department, entitled "Lands of DiConza" prepared by MH Engineering. These documents show the location and sizes of all lots in this development and the location and dimensions of all proposed buildings, vehicle and pedestrian circulation ways, recreational amenities, parking areas, landscape areas and any other purposeful uses on the project.
- SECTION 6.** The approved project shall be subject to the conditions as identified in the set of standard conditions attached hereto, as exhibit "A", and by this reference incorporated herein.
- SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date; Publication. This Ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of February 2004, and was finally adopted at a regular meeting of said Council on the 3<sup>rd</sup> Day of March 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES:            COUNCIL MEMBERS:**  
**NOES:           COUNCIL MEMBERS:**  
**ABSTAIN:       COUNCIL MEMBERS:**  
**ABSENT:        COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 3<sup>rd</sup> Day of March 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**EXHIBIT A**  
**APPROVED DEVIATIONS**

<b>Phase</b>	<b>Lot #</b>	<b>Front</b>	<b>Left</b>	<b>Right</b>	<b>Rear</b>
I	1	20	3	5	12
I	3	20	5	3	12
I	4	18	3	5	15
I	7	19	5	3	10
I	9	20	0	14	15

1. Wing walls shall be a minimum of 3 feet from property lines.
2. BMR and MR units shall comply with Ordinance No. 1641 for modified setback dwellings.
3. Project: Phase I = 9 units Phase II = 7 units; Phase III = 8 units; Future Phase IV = 8 ; Total Project = 32 homes (including 3 BMR and 3 MR units)
4. Deviations are only allowed for those listed above and shown on the precise development plan on file with the Community Development Department. Setbacks not specifically called out shall comply with the site development standards of the R-2(3,500) zoning district.

**ORDINANCE NO.       , NEW SERIES**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF MORGAN HILL APPROVING DEVELOPMENT  
AGREEMENT, DA 03-11 FOR APPLICATION MP 02-07:  
CORY-SAN PEDRO PARTNERS. (APN 817-11-061)**

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY  
ORDAINS AS FOLLOWS:**

**SECTION 1.** The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

**SECTION 2.** The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

**SECTION 3.** The Planning Commission, pursuant to Title 18, Chapter 18.78.125 of the Municipal Code and Resolution No. 03-17a & b, adopted May 27, 2003, has awarded allotments to that certain project herein after described as follows:

<u>Project</u>	<u>Total Dwelling Units</u>
MP 02-07: Cory-San Pedro Partners	24 Single-Family Homes

**SECTION 4.** References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

**SECTION 5.** The City Council hereby finds that the Residential Development Agreement and Development Proposal approved by this ordinance (and attached hereto) are compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

**SECTION 6.** Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

**SECTION 7.** Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

**SECTION 8.** Effective Date Publication. This ordinance shall take effect from and after thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

The foregoing ordinance was introduced at the regular meeting of the City Council of the City of Morgan Hill held on the 18<sup>th</sup> Day of February 2004, and was finally adopted at a regular meeting of said Council on the 3<sup>rd</sup> Day of March 2004, and said ordinance was duly passed and adopted in accordance with law by the following vote:

**AYES:            COUNCIL MEMBERS:**  
**NOES:           COUNCIL MEMBERS:**  
**ABSTAIN:       COUNCIL MEMBERS:**  
**ABSENT:        COUNCIL MEMBERS:**

**ATTEST:**

**APPROVED:**

\_\_\_\_\_  
Irma Torrez, City Clerk

\_\_\_\_\_  
Dennis Kennedy, Mayor

**∞ CERTIFICATE OF THE CITY CLERK ∞**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 3<sup>rd</sup> Day of March 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**



RECORD AT NO FEE PURSUANT TO  
GOVERNMENT CODE SECTION 6103

Recorded at the request of  
and when recorded mail to:

City of Morgan Hill  
Community Development Department  
17555 Peak Avenue  
Morgan Hill, CA 95037

RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between SAN PEDRO AVENUE LTD under the Agreement, ("Property Owner") and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements as contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On \_\_\_\_\_, 2004, the City Council of the City of Morgan Hill adopted Ordinance No. \_\_\_\_\_, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on \_\_\_\_\_, 2004.

NOW, THEREFORE, the parties agree:

1. Definitions. In this Agreement, unless the context otherwise requires:

- (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in Paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.

2. Exhibits. The following documents are referred to in this Agreement, attached and made a part by this reference:

- Exhibit "A" - Development Allotment Evaluation
- Exhibit "B" - Development Review and Approval Schedule
- Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. Description of Real Property. The real property which is subject to this Agreement is described in Exhibit "C".

4. Interest of Property Owner. Property Owner represents that he has a legal or equitable interest in the real property.

5. Assignment. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. Relationship of Parties. Property Owner and the City agree that each is not the

agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On November 7, 2001, the City of Morgan Hill approved a Precise Development Plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MP-02-07: Cory-San Pedro Partners, on file in the Office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of 24 single family homes as approved by the City of Morgan Hill Planning Commission.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in Paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "B") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In

the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the

approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Multi-Family Low and zoning classification of R2-3,500 / RPD, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

(a) Permitted uses of the property are limited to the following:

That shown on the Vesting Tentative Map, Grading Plans and Precise Residential Development Plans, as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative Map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under the Site and Architectural Review Process.

(d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and the Site and Architectural Review Process.

(e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural Review Process.

(g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

(h) Property Owner agrees to include the following safety features in the development:

- (i) Provide fire escape ladders for upper floor bedrooms.
- (ii) Provide one mounted fire extinguisher (rated 2A10BC) for up to the first 1,500 square feet of floor space, plus one fire extinguisher for each additional 1,500 square feet of floor space.
- (iii) Provide outdoor lighting to meet all police department specifications.
- (iv) Install illuminated or self luminous address numbers for each unit and painted curb numbers where possible.
- (v) Use of noncombustible siding materials on at least fifty percent of the units within the project. The noncombustible siding must be used on at least fifty percent on an individual unit.
- (vi) Will provide an approved and monitored fire and intrusion alarm system within each unit.
- (vii) Provides automatic earthquake shut-off valves for gas service.

(i) Property Owner agrees to include the following open space improvements in the development:

- (i) Park and open space to be maintained by a Home Owners Association (HOA).
- (ii) Project provides a path connection to the future Butterfield Channel pathway.
- (iii) Continuous open space buffer, 10 feet in excess of minimum, will be provided along the Butterfield street frontage.

(j) Property Owner agrees to include the following landscape improvements in the development:

- (i) Applicant will provide and install 24" box size trees (City approved) with a minimum height of nine feet and spread of three to four feet, at a ratio of one per ten site trees (excludes street trees).
- (ii) Developer will install varied front yard landscaping plans.
- (iii) Deciduous trees will be planted along the south facing side of homes or buildings to conserve energy.
- (iv) All street trees (two trees per lot, three trees per corner lot) will be 24-in. box trees from the city-approved list.
- (v) Landscape planting and irrigation systems shall be designed to conserve water.
- (vi) Drought tolerant grasses shall be used for lawn areas. Lawn areas will not exceed 25 percent of landscape area (exclusive of parks).
- (vii) Automatic irrigation systems will utilize separate valves and circuits for trees; shrubs and ground covers; and lawns areas. Minimum of four separate valves will be provided.
- (viii) Water conserving irrigation system will be used within the development
- (ix) Developer shall install non-irrigated hardscape coverage on at least 15 percent of landscape area (does not include pedestrian walkways across circulation aisles).
- (x) At least 50% of all plant material used shall be water conserving plans will be used from City Selected Plant list.
- (xi) Landscaping shall be installed on all areas visible from public and private rights-of-way.
- (xii) Site plan will preserve 6 trees on by site by either designing around the trees or relocating them..
- (xiv) Project design includes 6' good neighbor fencing.

(k) Property Owner agrees to the following school impact mitigations:

- (i) Applicant agrees to pay the district-adopted developer fees as required by the Leroy F. Greene Schools Facilities Act of 1998.
- (ii) The applicant will contribute \$3000.00 per unit to provide off-street pedestrian safety improvements or traffic safety improvements near a MHUSD school. The \$96,000.00 can be used for the safety improvements per the MHUSD as follows:
  - The applicant will install sidewalk which is not in place along the "Windmill" mobile home park on the north side of San Pedro Ave.
  - And/or: install crossing signals at Barrett and Juan Hernandez drive.And/or: The balance of the funds can be used for the caution signals at Barrett Elementary School or other safety improvements per the MHUSD

(l) Property Owner agrees to the following pedestrian and bicycle safety improvements:

(i) Project will provide striping for Class II bike lanes along Butterfield.

(m) Property Owner agrees to purchase 2 transferable development credit (TDC's) for every twenty-five dwelling units proposed. The applicant is currently proposing 24 units. Should purchase of the TDC's prove infeasible, Property Owner may, at City's option, pay an in-lieu open space fee in an amount satisfactory to the City Council. Proof of unsuccessful negotiation for the TDC's must be presented to the City with the request of the in-lieu fee option. Building permits will not be granted unless this provision has been complied with to the satisfaction of the City Council.

(n) Property Owner agrees to include the following construction features in the development:

(i) Project will include installation of EPA "Energy Star" windows.

(ii) This project will include 15% reduction over minimum T-24 compliance will be achieved thru dual pane low-E vinyl windows and furnace efficiency of .90 and AC SEER of 12.0 in all units.

(iii) Project will include two separately zoned high-efficiency heating systems in units to conform. A minimum of 60 percent of the dwelling units in the project will be dual-zoned and all units will include the installation of high efficiency gas furnaces with 90 percent efficiency rating or greater.

(iv) Project will include the installation of a recirculation hot water distribution system.

(v) Class A roof covering will be installed with two layers of 30# felt.

(vi) Will install ground ring cast-iron drainage pipes and piping insulation between floors for sound reduction of plumbing.

(vii) Will provide future ready wiring.

(viii) Will provide the following on all units:

- o 2x6 exterior studs
- o Garages finished with 5/8" type "X" gyp board.
- o Oversized floor framing member throughout
- o Pre-plumb gas lines to dryer along with 220 volt current.
- o Interior walls between units will be insulated for sound.

(ix) Project will include balconies used on minimum of 25% of the units viewed from the public right-of-way.

(x) Will uses at least two different roof lines and two different pitches throughout the project.

(xi) Project will include architectural designs considered conforming to adjacent neighborhoods.

(xii) Project will include consistent level of architectural relief be on all four sides and architectural relief on all visible elevations. A varied color pallet to conform will be used.

(xiii) Project will install sound insulation board in all units near noise sources.

(xiv) Nine modified dwellings are allowed in Phase I of the project if the building permits are obtained by June 30, 2005.



- (xv) Project will provide harmonious use of exterior building materials and varying front elevations with low repeat factors.
- (xvi) Project will include the installation of an AC unit with SEER rating of 12 or higher.
- (xvii) Project will include the installation of cast iron pipe with piping insulation RJ6 and CAT54R wiring using home runs to main box.
- (xviii) The applicant will be required to install an 8 ft. noise barrier along the west property lines of lot 8 in Phase III and a 6 ft. noise barrier along the south boundary of lots 6 through 8 in Phase III and a 6 ft. noise barrier along the east side of lot 6 in Phase III. The barriers will need to be constructed solidly over the entire surface and at the base of the barrier. Suitable materials for the barrier construction should have a minimum surface weight of 3 lbs/ft<sup>2</sup>, such as one-inch thick wood, masonry block, or concrete.
- (xix) Units on Lots 3-5 of Phase II and lots 1-3 and 6-8 of Phase III will have an interior noise level higher than 45 dBA therefore additional noise mitigations will be needed for those units. Mitigation will include, but not be limited to, sound rated windows and doors, special wall constructions, acoustical sealants, weather-stripping, etc. The buildings will also include forced air mechanical units.
- (xx) Building plans will be reviewed by an acoustical specialist to identify any necessary measures that would be required to maintain interior average (Ldn) and maximum noise at acceptable levels prior to issuance of building permits.

- (o) The Property Owner agrees to provide the following circulation improvements:
- (i) Applicant agrees to install full street improvements on west side of Cory Drive along project frontage.
  - (iii) Applicant agrees to install a bus stop on Butterfield Boulevard. The location has been approved by VTA and is located on an approved county transit bus route.
  - (iv) The project proposes to install on-site pathway through open space area to San Pedro Avenue.
  - (v) Overall street layout for entire project will provide for the future extension of a street to the easterly project boundary.
  - (vi) Project will eliminate an existing stub street at San Juan Drive.
  - (vii) Project will construct street improvements along San Pedro frontage.
  - (viii) Project shall provide a minimum 20 foot clear view back-out distance between the garage and travel way.
  - (ix) The proposed access points to the project shall provide adequate circulation for emergency response and police patrol.

(x) Applicant shall install curvilinear street and a cul-de-sac to discourage fast through traffic.

(xi) The interior streets meet all city standards.

(xii) Applicant shall install a landscaped median and entry statement at project entrance from San Pedro Avenue.

(xiii) Applicant agrees to obtain right-of-way dedication and install street improvements along the southerly extension of Walnut Grove Drive from behind Lawrence Oak Center to San Pedro Avenue per city wide circulation plans at a cost not to exceed \$5,000 per unit or \$165,000. The applicant agrees to the following phasing of the Walnut Grove Drive extension:

a. Phase I. Obtain dedication letter the Walnut Grove Drive extension.

b. Phase II & III. Clearing and grubbing of Walnut Grove extension. Install curb, gutter, and sidewalk and install a 10" water main.

c. Future Phase IV. Finish paving and installation of street lights.

(p) The Property Owner agrees to provide the following Storm Drain improvements:

(i) Applicant agrees to grid the existing water mains in Walnut Grove Drive alignment between southern terminus behind Lawrence Oak Center to San Pedro Avenue with 10-inch main.

(ii) All storm drain lines are within the paved area of the street.

(q) The Property Owner agrees to provide the following park and recreation improvements:

(i) Applicant shall dedicate a minimum of .97 acres of park space.

(ii) All parks and open space areas will be maintained through a Home Owners Association.

(iii) Passive recreation area, 1 tot lot, and 1 cabana will be provided within the park and open space area.

(iv) Pathways shall be provided which link park and open space areas, San Pedro Avenue and Butterfield Channel Pathway.

(v) Will pay double in lieu parks fees.

(vi) Applicant shall install a fence between the park and the Butterfield Channel as approved by the Architectural Review Board.

(r) The Property Owner agrees to provide the following lot layout and orientation improvements:

(i) A minimum five-foot front setback variation shall be provided between the single-family dwellings, and four foot front setback variation shall be provided between the adjoining units.

(ii) A minimum five-foot rear setback variation shall be provided for the single family dwellings, and four-foot rear setback variation shall be provided for multi-family dwelling per the criteria.

(iii) Project shall provide variation in garage placement and provide tandem garages.

(iv) Sound insulation will be provided on attached walls and exteriors facing Butterfield and AC units will be located away from property lines.

(s) The Property Owner agrees to provide the following natural and environmental features:

(i) Fill and excavations shall be less than three feet.

(ii) All roads shall follow the existing and natural topography.

(iii) Site plan shall preserve mature trees where possible.

(iv) The project shall use a design and layout technique that gives individuals maximum privacy within and outside the home.

(v) Project shall arrange buildings, access-ways and locate open space to eliminate the need for sound walls.

(vi) Drywall is to be source separated and recycled. Cardboard containers and boxes will be source separated and recycled.

(t) Water mains either new or existing shall be gridded from San Pedro. Walnut Grove Drive behind Lawrence Oak Center.

(u) The Property Owner shall record constructive notice on the Final Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(v) Property Owner agrees to include the following housing types in the development:

(i) Two low income for sale, Below Market Rate units of approximately 1489 sq. ft., with three bedrooms and two bathrooms.

(ii) Three moderate rate units (Non-BMR's). The final sales price (at close of escrow) for the three moderate rate units will be based on HUD income limits for a family of 4 at the closing date.

(u) Property Owner agrees to include the following affordable housing features in the development:

(i) The Property Owner shall provide at least two (2) of the units for participation in a Below Market Rate (BMR) for sale program approved by the Community Development Department. The BMR units shall be approved by the City of Morgan Hill Planning Commission and Site and Architectural Review process. One of the BMR units shall be under construction and the framing inspection passed prior to the issuance of the 10<sup>th</sup> building permit and framing inspection passed on the second unit prior to the issuance of the 23<sup>rd</sup> building permit.

- (ii) The Property Owner agrees to pay 20 percent of the per unit cost of the standard housing mitigation fee payable to the City of Morgan Hill prior to the issuance of the 15th building permit.
- (iii) Below Market Rate (BMR) purchasers shall be treated in the same manner as purchasers of non-BMR units. Developer, including Developer's company, employees, and/or agents) agrees to assist BMR purchasers with all phases of the sales transaction, including, but not limited to, the preparation of any and all documents necessary to complete the sale and representation by a licensed real estate agent/broker.
- (iv) Property Owner will provide the buyer(s) of the BMR unit(s) the same option to upgrade the materials in the BMR home as a market rate buyers would in the market rate homes.
  - 1. Property Owner will provide the same level of customer service to the BMR buyer as the market rate buyer.
  - 2. The Below Market Rate (BMR) Program Guidelines are hereby incorporated herein in full by this reference.
  - 3. Exterior trim entry door hardware, and finish to the same standard as the Market Rate.
  - 4. Minimum standards for equipment, fixtures, appliances and finishes have been established for the BMR units. All items installed shall be of good quality. Good quality shall be deemed as entry level but generally not the lowest level of product offered for that application. All products shall offer durability, reliability and maintain a quality appearance and function that is standard to most other median priced homes in the area. The below listed items must be installed as a basic feature of each BMR home.

Minimum Interior standard finishes will be as follows:

- All closets shall have doors
- Interior doors to be raised panel type or same as market rate
- Door hardware to be brass finish or the equivalent
- Appliances shall be major brand name
- Microwave hood shall be installed over stove
- Kitchen counters shall be white ceramic tile
- Kitchen cabinets shall be stained wood with white melamine interiors
- Units will be roughed in for AC including electrical and line set.
- Basic alarm system to secure all openings to the home
- Carpet in bedrooms, hallways, family rooms
- Linoleum or tile in entry, bathrooms kitchens

- Laminate flooring may be substituted for carpet or linoleum
- Electric garage door opener

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement, which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or

canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraphs 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement, which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and

materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
- (ii) Damages for lost profits;
- (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill:                      Community Development Department  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037

With a copy to:                              City Clerk  
City of Morgan Hill  
17555 Peak Avenue  
Morgan Hill, CA 95037

Property Owner:                              San Pedro Avenue LTD  
1999 S. Bascom Ave, Suite 500  
Campbell, CA 95008

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes therefor, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

(a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

(b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.

(c) This writing contains in full, the final and exclusive Agreement between the parties.

(d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.



APPROVED AS TO FORM:

- 17 -  
CITY OF MORGAN HILL

\_\_\_\_\_  
HELENE LEICHTER, City Attorney

\_\_\_\_\_  
J. EDWARD TEWES, City Manager

Attest:

\_\_\_\_\_  
IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

\_\_\_\_\_  
\_\_\_\_\_

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,  
MUST BE ACKNOWLEDGED BY A NOTARY)**

**EXHIBIT "A"**

**DEVELOPMENT ALLOTMENT EVALUATION**

**MP-02-07**

(See Entire Documents on File in the  
Community Development Department - City Hall)  
CITY OF MORGAN HILL

**EXHIBIT "B"**

---

**DEVELOPMENT SCHEDULE MP-02-07: CORY – SAN PEDRO PARTNERS  
FY 2004-05 (9 units), FY 2005-06 (7 units), FY 2006-07 (8 units)**

---

<b>I. SUBDIVISION AND ZONING APPLICATIONS</b>	
Applications Filed:	October 2, 2003
<b>II. SITE REVIEW APPLICATION</b>	
Application Filed:	October 2, 2003
<b>III. FINAL MAP SUBMITTAL</b>	
Map, Improvements Agreement and Bonds:	March 31, 2004
<b>IV. BUILDING PERMIT SUBMITTAL</b>	
Submit plans to Building Division for plan check:	
FY 2004-05 (9 units)	June 30, 2004
FY 2005-06 (7 units)	June 30, 2005
FY 2006-07 (8 units)	June 30, 2006
<b>V. BUILDING PERMITS</b>	
Obtain Building Permits:	
FY 2004-05 (9 units)	September 30, 2004
FY 2005-06 (7 units)	September 30, 2005
FY 2006-07 (8 units)	September 30, 2006
Commence Construction:	
FY 2004-05 (9 units)	June 30, 2005
FY 2005-06 (7 units)	June 30, 2006
FY 2006-07 (8 units)	June 30, 2007

Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit six (6) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 12 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** *February 18, 2004*

**Agenda Item # 20**

**Prepared By:**

**Assistant to the City  
Manager**

**Submitted By:**

**City Manager**

### **CDBG REPROGRAMMING OF FUNDS TO PROVIDE CAPITAL FUNDS FOR DAYWORKER CENTER**

#### **RECOMMENDED ACTION(S):**

1. Conduct Public Hearing
2. Approve reprogramming of FY 2003-2004 CDBG Funds
3. Authorize the City Manager to do everything necessary and appropriate to reprogram CDBG funds including the execution of all required documents to transfer funds to the Dayworker Project

**EXECUTIVE SUMMARY:** Over the past several years, there has been community concern voiced about the dayworkers standing near the intersection of Main and Depot. A group of community volunteers has been working as a committee to establish the South County Dayworker Center for the dayworkers to occupy. The Center will provide shelter for the men, improve pedestrian safety in the area, and improve the appearance of this corner. The Council allocated \$50,000 in CDBG funds from the 2002-2003 fiscal year CDBG grants for the Center.

The Center has obtained the donation of two modular buildings and has moved the buildings onto the site. Several significant donations have been received from the local development community to help decrease the costs of constructing the Center. Despite every effort to minimize costs for this interim facility, however, the costs, still exceed the funds the Center has available to complete the project.

Attached is a 2004 annual budget for the Dayworker Center showing both anticipated expenses and revenues. In short form, the Center expects expenses of \$180,620 for the year and revenues of \$123,649 with a financial gap of \$57,000. This budget assumes that the Center is able to not construct a permanent parking lot and parking lot lights through the opportunity made available by the Council in the Interim Use Ordinance recently adopted. Center staff have prepared the first draft of the exit plan required by the Ordinance and will be working with City staff to proceed with this process. The development of this site is also dependent on the City Council approving the loans to Weston Miles and the Dayworker Center that will be considered later on tonight's agenda.

The Center is now looking for opportunities to close the anticipated \$57,000 gap. They will be soliciting additional donations for the construction of the Center, particularly for the temporary parking lot improvements, and has asked the City to consider making additional CDBG funds available. Staff has previously reported to the Council that the Galvan Park improvement project, funded in the 2003-2004 CDBG allocation, anticipated having unexpended funds this year due to some construction delays. Therefore, the option recommended to the Council would be to reprogram \$50,000 in 2003-2004 CDBG funds to the Dayworker Center with the intention to allocate \$50,000 in 2004-2005 CDBG funds to the Galvan Park project. This reprogramming would then need to be approved by the County Board of Supervisors.

**FISCAL IMPACT:** CDBG funds are provided by the Federal Government to primarily support low income individuals in the community. Additional appropriations of CDBG funds for this project will reduce the amount of funding available for other public facility CDBG projects in future years. The current CIP indicates that the City will commit future CDBG funds for an expansion of the El Toro Youth Center. This project is currently undefined and there has been no actual budget developed for it.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: (February 18, 2004)***

### **ZA-03-19: CITY OF MORGAN HILL- ZONING TEXT AMENDMENT/ COMMUNITY ACTIVITY SIGNS AND CHANGEABLE COPY SIGNS FOR PUBLIC AGENCIES, SCHOOLS, PLAYHOUSES AND RELIGIOUS INSTITUTIONS**

#### **RECOMMENDED ACTION(S):**

Open and Continue Public Hearing to March 17, 2004.

#### **EXECUTIVE SUMMARY:**

The City is requesting to amend Title 18 of the Municipal Code, to modify the sign code text. The proposal would amend the definition of Community Activity Signs, create a definition for "Community Group", and amend the criteria for Community Activity Signs. Also, included is a request to allow one manually changeable copy-sign for public agencies, schools, playhouses, and religious institutions.

This item was advertised for public hearing for the meeting of January 21, but was opened and continued to February 18. However, the amendments have not been finalized. It is recommended that the Council open the public hearing and continue the application to the March 17, 2004 meeting.

**FISCAL IMPACT:** No budget adjustment required.

**Agenda Item # 21**

**Prepared By:**

\_\_\_\_\_  
**Associate Planner**

**Approved By:**

\_\_\_\_\_  
**Community  
Development Director**

**Submitted By:**

\_\_\_\_\_  
**City Manager**



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

### **SD 03-08/ZA 03-10/DA 03-06: WATSONVILLE-SOUTH COUNTY HOUSING**

#### **RECOMMENDED ACTION(S):**

1. Open Public Hearing and Continue to March 24, 2004.
2. Review and Discuss
3. Give Direction to Staff and Applicant Regarding Appropriate Project Density.

**EXECUTIVE SUMMARY:** In December 2003, the City Council reviewed the 12-unit single-family duet project proposed on the northwest corner of Watsonville Road and Calle Sueno. The project, commonly known as Watsonville Road Teacher Housing Project, is sponsored by the Redevelopment Agency and South County Housing (SCH) for the development of affordable ownership units targeting teachers working in Morgan Hill. The purpose of the December 17 public hearing and council review was to review and discuss the density of the 12-unit development proposal and number of related exceptions to the City's zoning ordinance it required.

At the conclusion of its review, the Council directed staff to return with project density variations, an assessment of the code exceptions required to support the various densities and the cost associated with implementing the various densities. A copy of the December 17 City Council minutes have been attached for the Council's reference.

In order to meet all code requirements, a 7-unit project would be the maximum density for the site. In response to the Council's direction, South County Housing has prepared three schematic site plans. The alternatives include 12, 11, and 10 units, respectively. The attached memo provides an outline and detailed comparison of the 3 development schemes with emphasis on the code variations required to implement each. The attached matrix is intended as a summary comparison of the variance issues as well as estimated project costs, subsidy required by the Redevelopment Agency, floor area ratio and quality of life issues.

Staff has reviewed the three proposed schemes and recommends Scheme 3 (10-units), because it requires fewer zoning variations than the original 12-unit plan, exceeds the on-site parking requirements, provides driveway areas in front of the majority of the units and includes other features which make it a more desirable plan.

The Council is asked to review the three development schemes associated costs, and indicate which scheme would best meet the City's objectives. South County Housing, working in coordination with City Staff will further refine the preferred development scheme and return March 24 with final plans and contract document for adoption by the Council and Redevelopment Agency.

**FISCAL IMPACT:** No budget adjustment required for the City; potential fiscal impact on the Redevelopment Agency, depending on the development scheme selected.

**Agenda Item # 22**

**Prepared By:**

**Senior Planner**

**Approved By:**

**Director of Community Development**

**Submitted By:**

**City Manager**



## **REDEVELOPMENT AGENCY**

**MEETING DATE:** *February 18, 2004*

Agenda Item # 23

Prepared By:

BAHS Manager

Approved By:

BAHS Director

Submitted By:

Executive Director

### **WATSONVILLE ROAD TEACHER HOUSING PROJECT – FIRST AMENDMENT TO THE PREDEVELOPMENT LOAN AGREEMENT**

#### **RECOMMENDED ACTION(S):**

1. Approve the First Amendment to the Predevelopment Loan Agreement with South County Housing Corporation (SCH), increasing the loan amount by \$100,000 (attached); and
2. Authorize the Executive Director to Execute the Agreement.

#### **EXECUTIVE SUMMARY:**

In November 2002, the Redevelopment Agency approved a Predevelopment Loan Agreement with SCH in the amount of \$50,000 for design, engineering, soils tests, Measure P submittals, legal fees, and other reasonable pre-construction expenses for the Watsonville Road Teacher Housing Project. This short term (approximately one-year) loan was intended to cover SCH's preliminary expenses on the project until the project was clearly defined and cost requirements understood. The Agency could then enter into a larger loan (i.e., Disposition and Development Agreement) with SCH for construction of the project and repayment of the Predevelopment Loan. The direction of the project has changed several times since November 2002 and the Agency, while closer in agreeing on the direction of the project, is not currently in a position to approve a larger loan.

SCH has been working in good faith on the project since November 2002 and has exhausted the entire \$50,000 in predevelopment loan funds. SCH's out of pocket expenditures on the project to date are in excess of \$120,000, and rising.

While SCH and staff are requesting final direction from the City Council/Redevelopment Agency this evening, the larger loan agreement could not be approved until at least March 24, 2004, with a release of funds occurring in early April. SCH is seeking interim financial assistance as soon as possible to offset its out-of-pocket costs.

The Amended Predevelopment loan would add \$100,000 to the original \$50,000 Predevelopment Loan; it would earn 4% interest, and would be due and payable by December 31, 2004. As in the original Predevelopment Loan, the Amended loan amount would roll over into a larger project loan.

**FISCAL IMPACT:** The Agency has budgeted sufficient funds in the 327 Housing Set-Aside funds for this expenditure.



## **CITY COUNCIL/REDEVELOPMENT**

**AGENCY MEETING DATE:** *February 18,*  
*2004*

**Agenda Item # 24**

**Approved By:**

**BAHS Director**

**Submitted By:**

**Executive Director**

### **OFF-SITE IMPROVEMENTS FOR DAY WORKER CENTER**

**RECOMMENDED ACTION(S):** Adopt resolutions making findings required by California Redevelopment Law and authorize the Executive Director to do everything necessary to modify, subject to City Attorney review and approval, execute, and implement the loan agreements with the Day Worker Committee or its designee for an amount not to exceed \$15,000 and Weston-Miles Architects for an amount not to exceed \$180,000 to install off-site improvements for the Day Worker Center located on Depot Street.

**EXECUTIVE SUMMARY:** Several months ago, the City Council/Redevelopment Agency approved a loan of \$350,000 and a triple façade grant for Weston-Miles Architects (WMA) to renovate the Isaacson Granary into 10,000 sq. ft. of commercial/office space. As part of that project, WMA was required to allow the Day Worker Center to operate on the property north of the Granary. Although the Center is an interim use, the municipal code does not allow for exemptions for interim uses and requires that the development install public improvements such as curb, sidewalk, and gutter. WMA and the Day Workers Center indicate that they did not anticipate nor budget for the cost of off-site improvements. Without the offsite improvements, the Day Worker Center will be unable to proceed with their development which was one of the key reasons for approving the Granary project in the first place

In October 2003, the Agency directed staff to negotiate and prepare the necessary agreements, not-to-exceed \$175,000, to fund the off-site improvements for the Day Worker Center and bring such agreements to the Agency for consideration. The off-site improvements include curb, sidewalk, gutter, street improvements, lighting, engineering and inspections fees, water and sewer improvements, and utility undergrounding in-lieu fees. The recent estimates for the off-site improvements total about \$195,000, but WMA indicates they are working with their contractors bring the costs down. The following are the loan terms:

#### **Day Worker Committee**

**Amount:** up to \$15,000 for the driveway improvements, but the actual share is yet to be negotiated with WMA.

**Interest:** 0%

**Term:** Deferred for 10 years, but Day Workers Committee has agreed to hold annual fund raisers to repay the loan.

**Security:** The loan to the Day Worker's will be secured by the modular units and FFE.

#### **WMA**

**Amount:** up to \$180,000 for the all the off-site improvements; when WMA has confirmed the total costs the loan will be adjusted downward accordingly.

**Interest:** 0%

**Term:** WMA is requesting a 10 year loan with the first 5 years deferred with fully amortized payments beginning in year 5, but staff has requested a shorter term which WMA is currently considering. The loan would be paid off earlier if WMA pulls building permits for the permanent development of the property prior to the end of year 10.

**Security:** The loan is secured by the property.

**FISCAL IMPACT:** Monies are available in the BAHS Economic Development budget (Fund 317).



**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
MORGAN HILL APPROVING LOANS BY THE MORGAN  
HILL REDEVELOPMENT AGENCY FOR ALL OR A PART OF  
THE COST OF IMPROVEMENTS TO DEPOT AND MAIN  
STREETS**

WHEREAS, pursuant to provisions of the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), and in particular Section 33445 thereof, the Morgan Hill Redevelopment Agency (the "Agency") proposes to make loans to a Developer and its Lessee pay for all or a part of the cost of installing and constructing improvements to Depot and Main Streets. The proposed improvements to Depot and Main Streets include the installation and construction of new curbs, gutters, sidewalks; utility undergrounding in-lieu fees, driveway approaches; storm drain, and water and sewer improvements between Main Street and First Street (the "Improvements"). These off-site improvements are necessary to allow the Lessee to construct and operate an interim Day Worker Center (the "Center") on the southeast corner of Main and Depot Streets. The Center will be operational by Fall 2004 and operate at the location for a minimum of three years.

WHEREAS, the Improvements will be located in, and primarily serve the residents and taxpayers of, the Ojo de Agua Community Development Project (the "Project Area") of the Agency. The Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. Conditions of blight in the Project Area include a lack of adequate public improvements, including circulation improvements, and properties which suffer from economic dislocation, deterioration or disuse.

The Public Improvements are required to allow an interim Day Worker Center to be located on the Site which is at the southeast corner of Depot Street and Main Street. The Day Worker Center will eliminate social and economic blight by providing a safe and sanitary facility for the laborers who currently loiter in a gateway area to downtown to access job, educational, and social service opportunities. The establishment of the day worker center will eliminate the perception that the downtown area is blighted.

WHEREAS, the Improvements will also assist in remedying a lack of adequate public improvements, improve vehicular and pedestrian circulation, improve access to the surrounding area, mitigate safety hazards, improve aesthetics, and help prevent flooding. This in turn will assist in eliminating a factor which prevents or substantially hinders the economically viable use or capacity of buildings or lots in downtown and will encourage private-sector investment in the Project Area, thereby facilitating the redevelopment of the Project Area, all for the health, safety and welfare of the residents and taxpayers of the Project Area.

WHEREAS, the current and future budget constraints of the City prevent the City from financing the Improvements. Traditional methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments or special taxes which would be added to existing taxes and assessments, thereby discouraging redevelopment of properties within the project area. Furthermore, special taxes require a two-thirds vote, again an extraordinary majority voter approval requirement, and special assessments are subject to a majority protest. Finally, the proposed Improvements are not included in the City's Traffic Impact Fee Mitigation Report and, therefore, are not eligible to be funded with traffic impact fees.

Whereas, the Developer cannot finance the Improvements without a loan from the Agency because revenues from the Site are not available to finance a commercial loan until the Site is developed to its highest and best use. The Developer's Lessee can not finance the Improvements because it is a volunteer run committee who must rely on charitable donations in order to construct and operate the Center.

NOW, THEREFORE, based on the evidence presented to the Agency, including the written staff report, this resolution, and oral testimony on this matter, the City does hereby find, determine, resolve, and order as follows:

Section 1. The Improvements will be of primary benefit to the Project Area and the downtown area and will further the purposes of the Redevelopment Plan and the City's Downtown Plan as it will provide social, economic, and environmental benefits to, and promote the health, safety and general welfare of, the residents and taxpayers of the Project Area and the downtown area.

Section 2. The City Council hereby further finds and determines pursuant to Health and Safety Code Section 33445 and 33678 that based upon the foregoing, the whereas clauses listed in this resolution and other information in the file of this matter, and/or presented to it: a) the Improvements are of benefit to the Project Area and to the immediate neighborhood in which the project is located, b) the payment of funds for all or a part of the cost of the Improvements assists in the elimination of one or more blighting conditions inside the Project Area, c) the loaning of funds for all or a part of the cost of the Improvements is consistent with the Agency's implementation plan adopted pursuant to Health and Safety Code Section 33490, and d) no other reasonable means of financing the Improvements available to the City.

Section 3. The City Council hereby approves loans made by the Agency to pay for all or a part of the cost of the installation and construction of the Improvements from any revenues of the Agency lawfully available therefor.

Section 4. If any portion of this Resolution is declared invalid by a court of competent jurisdiction then it is the intent of the City Council that all other portions of the Resolution shall be severed and remain in full force and effect.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at a Regular Meeting held on the 18<sup>th</sup> Day of February, 2004 by the following vote.

<b>AYES:</b>	<b>COUNCIL MEMBERS:</b>
<b>NOES:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSTAIN:</b>	<b>COUNCIL MEMBERS:</b>
<b>ABSENT:</b>	<b>COUNCIL MEMBERS:</b>

**🦉 CERTIFICATION 🦉**

**I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA,** do hereby certify that the foregoing is a true and correct copy of Resolution No. , adopted by the City Council at a Regular Meeting held on February 18, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, City Clerk**

**RESOLUTION NO. \_\_\_\_\_ MHRA**

**A RESOLUTION OF THE MORGAN HILL REDEVELOPMENT AGENCY  
APPROVING THE PAYMENT BY THE AGENCY OF ALL OR PART OF  
THE COST OF IMPROVEMENTS TO DEPOT AND MAIN STREET.**

**RECITALS:**

WHEREAS, in order to effectuate the provisions of the Community Development Plan (the "Redevelopment Plan") for the Ojo de Agua Community Development Project (the "Project Area"), originally adopted by City Ordinance No. 552 on June 3, 1981, and as amended and restated by the Amendment to the Community Development Plan for the Ojo de Agua Community Development Project adopted by City Ordinance No. 1429 N.S. on May 5, 1999, the Morgan Hill Redevelopment Agency (the "Agency") proposes to pay for all or a part of the cost of installing and constructing public improvements to Depot and Main Street. The proposed improvements to Depot and Main Streets include the installation and construction of new curbs, gutters, sidewalks; utility undergrounding in-lieu fees, driveway approaches; storm drain, and water and sewer improvements between Main Street and First Street (the "Improvements"); and

WHEREAS, the City Council has previously determined that the Project Area is an area in which the combination of conditions of blight is so prevalent and so substantial that there is a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical, social and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment. Among other things, the Project Area contains vacant and underutilized properties, properties which suffer from economic dislocation, deterioration or disuse, including depreciated or stagnant property values and impaired investments, and aged and obsolete buildings. Such conditions tend to further deterioration and disuse because of the lack of incentive to landowners and their inability to improve, modernize or rehabilitate their property while the condition of the neighboring property remains unchanged. The Project Area is characterized by the existence of inadequate open spaces, public improvements and public facilities which cannot be remedied by private or governmental action without redevelopment; and

WHEREAS, the proposed Improvements will assist in the elimination of conditions of blight within the Project Area which are caused by inadequate public improvements. The installation and construction of the Improvements will help remedy the lack of adequate public improvements for the site and will assist in the revitalization of the Project Area and encourage private sector investment in the Project Area, thereby facilitating and accelerating the redevelopment of the Project Area. The Improvements will create a better gateway to the downtown area and will promote the economic growth and development of the Project Area by the creation of more jobs and stimulating private investment in the area. Moreover, the Improvements will allow for the development of an interim Day Worker Center on the site, thus, providing a location for day workers to congregate off the streets reducing the visible and social blight to the downtown area and making downtown a more attractive location to invest or visit; and

WHEREAS, the current and future budget constraints of the City prevent the City from financing the Improvements by reasonable means. Traditional methods of financing such as the issuance of general obligation bonds are unavailable as a practical matter because of the extraordinary majority voter approval requirements of two-thirds of the electorate. Assessment financing or special tax financing could overburden benefiting properties with assessments, thereby discouraging redevelopment of properties within the project area. Furthermore, special taxes require a two-thirds vote, again an extraordinary majority voter approval requirement,, and assessments are subject to a majority protest. Finally, the proposed improvements are not include in the City's Traffic Impact Fee Mitigation Report and, therefore, are not eligible to be funded with traffic impact fees; and

WHEREAS, Health and Safety Code Section 33445 requires that the City Council approve loans by the Agency for all or a part of the cost of the Improvements which is publicly owned either within or without the Project Area; and

WHEREAS, Developer can not finance the Improvements without a loan from the Agency because revenues from the Site are not available to finance a commercial loan until the Site is developed at its highest and best use. The Developer's Lessee can not finance the Improvements because it is a volunteer run committee who must rely on charitable donations in order to construct and operate the Day Worker Center; and

WHEREAS, a joint meeting to be held by the City Council and the Agency regarding the approval of loans by the Agency for all or a part of the cost of the installation and construction of the Improvement which is publicly owned either within or without the Project Area has been duly given in the manner required by law;

NOW, THEREFORE, based on the evidence presented to the Agency, including the written staff report and oral testimony on this matter, the Morgan Hill Redevelopment Agency does hereby find, determine, resolve and order as follows:

Section 1. The Improvements will be of primary benefit to the Project Area and the downtown area and will further the purposes of the Redevelopment Plan and the City's Downtown Plan as it will provide social, economic, and environmental benefits to, and promote the health, safety and general welfare of, the residents and taxpayers of the Project Area and the downtown area.

Section 2. No other reasonable means of financing the Improvements is available to the City or the Developer or the Lessee.

Section 3. The payment of funds for the construction of the Improvements will assist in the elimination of one or more blighting conditions inside the Project Area, and is consistent with the Agency's implementation plan adopted pursuant to Health and Safety Code Section 33490.

Section 4. The Agency hereby approves loans by it for the cost of the Improvements from any revenues of the Agency lawfully available therefor and hereby directs its Executive Director and/or any other authorized officers to take such actions, perform such deeds and execute, acknowledge and deliver such instruments and documents as it deems necessary in connection with making a loan to the Day Workers Committee or its designee and to Lesley Miles and Charles Weston or their designee.

Section 5. If any portion of this Resolution is declared invalid by a court of competent jurisdiction then it is the intent of the City Council that all other portions of the Resolution shall be severed and remain in full force and effect.

**PASSED AND ADOPTED** by the Morgan Hill Redevelopment Agency at a Special Meeting held on the 18<sup>th</sup> Day of February, 2004 by the following vote:

**AYES:**            **AGENCY MEMBERS:**  
**NOES:**         **AGENCY MEMBERS:**  
**ABSTAIN:**    **AGENCY MEMBERS:**  
**ABSENT:**      **AGENCY MEMBERS:**

**🔱 CERTIFICATION 🔱**

I, **IRMA TORREZ, AGENCY SECRETARY**, do hereby certify that the foregoing is a true and correct copy of Resolution No. MHRA- adopted by the Morgan Hill Redevelopment Agency at a Special Meeting held on February 18, 2004.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

DATE: \_\_\_\_\_

\_\_\_\_\_  
**IRMA TORREZ, AGENCY SECRETARY**



## REDEVELOPMENT AGENCY/CITY COUNCIL STAFF REPORT

**MEETING DATE:** February 18, 2004

### DOWNTOWN REQUEST FOR CONCEPTS PROCESS

**RECOMMENDED ACTION(S):** 1) Accept the Council's Economic Development (ED) Subcommittee recommendations regarding the "Quick Hitter" and "Information Gathering" proposals under the Downtown Request For Concepts (RFC) process as described in the attached table, 2) Authorize the Executive Director to do everything necessary and appropriate to implement the recommendations including preparing and executing documents for triple façade grants and loans to not exceed the recommended amounts, and 3) Direct the ED Subcommittee to issue the Request for Proposals to the recommended applicants.

**EXECUTIVE SUMMARY:** At the October 15, 2003 City Council/Agency Board meeting, the Agency approved dividing the Downtown RFC project concepts into two categories, "Quick Hitters" and "Information Gathering". At that time, staff promised to bring back those "Quick Hitter" proposals that require financial assistance beyond standard City/Agency programs. The attached table contains a brief status of the proposals and the ED Subcommittee's recommendation for each proposal. There are three basic recommendations for the Quick Hitters: 1) No further action under the RFC, 2) provide funding, or 3) proceed to the Request for Proposal (RFP) process. All the information gathering proposals are being recommended to proceed to the RFP process because much more information is needed before a decision can be made.

The ED Subcommittee recommends funding for the following "Quick Hitter" proposals:

- a) Approval of Morgan Hill Downtown Association's (MHDA) request for a \$5,000 grant for services related to the formation of the business/property improvement district (BID/PBID), provided that a plan has been submitted therefore. This proposal was substituted in lieu of MHDA's request for funding for a marketing program.
- b) Approval of Mr. Azar's request for a triple façade grant for the addition of second story offices to his building at 17500 Monterey. Mr Azar has agreed to convert the ground floor to retail use.
- c) Provide Mr. Scoffone a loan of up to \$150,000 to reimburse costs for the construction of the building facade and tenant improvements at 17330 Monterey Road. The loan would be for 5-years at 2% interest, with annual interest-only payments, and a balloon payment. The loan also contains funds for tenant improvements requested by Mr. Buffington for a sport's bar and grill. The ED Subcommittee recommended combining the requests to better leverage and secure the Agency funding. The loan funds would not be released until the tenant opens for business. The Agency has already approved a triple façade grant for the building.
- d) Provide a triple façade grant to the Meduri Trust for their façade improvements at the Morgan (Nob) Hill Shopping Center. Meduri estimates the total façade improvement costs to be upwards of \$650,000.

The Downtown Mall, Associated Concrete, Henken and Granada Theater "Quick Hitter" proposals are recommended to continue in the RFP process. The remaining "Quick Hitters" are recommended for "no further action" for such reasons as withdrawn request or no specific project to evaluate.

**FISCAL IMPACT:** The Agency has allocated \$3 Million for the Downtown RFC process.

Agenda Item # 25  
Prepared By:

BAHS Analyst

Approved By:

BAHS Director

Submitted By:

Executive Director

## DOWNTOWN RFC 2003 - RECOMMENDATION REPORT

### Category One - Quick Hitters

<b><u>Proposer</u></b>	<b><u>Address</u></b>	<b><u>Description</u></b>	<b><u>Status / Recommendation</u></b>
Morgan Hill Downtown Association	Monterey Road street light banners	Changed to annual street festival event	<b>Status:</b> Withdrew request <b>Recommend:</b> No further action under the RFC
Morgan Hill Downtown Association	N/A	Changed to provide grant to retain BID/PBID consultant	<b>Status:</b> MHDA requesting \$5,000 grant for BID/PBID consultant assistance. <b>Recommend:</b> Approve grant upon acceptance of a plan for the BID/PBID process.
DiSalvo	17265 Monterey Road (the "yellow" house)	Revise existing codes for small downtown business or residential properties for conversion to commercial to eliminate impact fees, off-site improvements, fire sprinkler requirements, etc.; pay for lost rent during "down-time"	<b>Status:</b> Changed municipal codes to assist small, downtown residential properties; funded the \$25,000 "Art Experience" grant, and approved a façade grant*. <b>Recommend:</b> No further action under RFC
Kruger / Grave	70 W. 5th Street	Add second housing unit to existing single family residence	<b>Status:</b> Potential Housing Rehab. Loan project <b>Recommend:</b> No further action under RFC
Integrated Architecture / Sam Azar	Northeast corner 1st Street and Monterey Road (17500 Monterey Road)	Add 6,000 s.f. second story (offices) to existing 6,000 s.f. commercial building	<b>Status:</b> Requests triple façade easement if 2nd story constructed. <b>Recommend:</b> Grant triple façade conditioned on construction of 2nd story and ground floor use to retail
Buffington	17330 Monterey Road (Scoffone Building)	Tenant improvements (TI's) for Sports Book Bar and Grill	<b>Status:</b> Agreed to be included in of Scoffone proposal below. <b>Recommend:</b> See Scoffone below
Scoffone	17330 Monterey Road (Scoffone Building)	Façade improvements & new ADA bathrooms for restaurant	<b>Status:</b> Approved a triple façade*; Revised request to \$150,000 loan (5 year at 2% annual interest payments with balloon) for ADA and TI improvements for Sports Book Bar and Grill (Buffington). <b>Recommend:</b> Approve loan: tenant must be open for business prior to disbursal of funds
Dasovic	55 E Third Street 57 E. Third Street 65 E. Third Street 75 E. Third Street	Resolve flood-control and parking issues before providing development incentives; set-aside a portion of RDA funds for future projects/don't allocate all funds now; set-aside funds for smaller projects	<b>Status:</b> Staff to keep her informed of further action regarding RFC/RFP and City capital improvement proposals for downtown. <b>Recommend:</b> No further action under RFC



Meduri Trust Properties	239 W. Main Avenue (Morgan Hill Shopping Center)	Major façade improvement to all buildings in the center	<b>Status:</b> Requests triple façade grant and \$100,000 loan (5-year, 3% rate, annual interest only payments with balloon) <b>Recommend:</b> Triple facade grant
Downtown Mall Parking Sherman House Association (Mobedshahi)	E. 1st to E. 2nd (behind the Downtown Mall)	Sell parking lot (+25,000 s.f.) to the City at fair market value for development of a public parking lot	<b>Status:</b> Property recently closed escrow. <b>Recommend:</b> Proceed to RFP
Associated Concrete (Goularte)	130 E. Main Street	Relocate existing concrete company to industrial area to allow for development in accordance with the Downtown Plan (i.e. housing)	<b>Status:</b> Goularte working with Agency staff to determine costs and project feasibility. <b>Recommend:</b> Proceed to RFP
Henken Enterprises	17270 Monterey, 17520 -17560 Monterey, next to 17105 Monterey	Unspecified	<b>Status:</b> Consider development possibilities. <b>Recommend:</b> Proceed to RFP
Granada Theater (Mobedshahi)	17440 Monterey Road (Granada Theater)	Complete renovation either 2-plex theater, or renovate and add 2 screens for a 4-plex theater	<b>Status:</b> Recently signed 30-year lease. <b>Recommend:</b> Proceed to RFP
Morgan Hill Downtown Association	Monterey Road	Traffic calming measures as recommended in DNTN Plan e.g., entry point & median landscaping and paving, special banner signage, identity signage, etc. plus structure to display special event banners spanning Monterey Rd	<b>Status:</b> Part of Downtown Work Plan <b>Recommend:</b> No further action under RFC
El Toro Brewing Company (Acevedo)	Monterey Road	Structures to display special event banners spanning Monterey Road	<b>Status:</b> Part of Downtown Work Plan <b>Recommend:</b> No further action under RFC

### Category Two- Information Gathering

<u>Proposer</u>	<u>Location</u>	<u>Project Description</u>	<u>Status / Recommendation</u>
Avalon Bay Communities, Inc.	Preference: VTA parking lot (Butterfield Boulevard)	Transit oriented housing project on 3 to 6 acres. 150-250 high-rent units	<b>Status:</b> Avalon Bay has been solicited by VTA to develop under-used parking lots. <b>Recommend:</b> Proceed to RFP
Ben Fuller cc: Craig van Keulen	17620 Monterey Road (Gunter Brothers)	Replace Gunter Brothers Feed Store with mixed-use project	<b>Status:</b> In escrow to purchase Gunter Bros. <b>Recommend:</b> Proceed to RFP
EAH Benny Kwong	Diana & Butterfield	Mixed-income, transient-oriented, high quality apartments; approximately 150 units; 2-3 stories; 1-3 bedrooms; subterranean parking; community building; daycare center	<b>Status:</b> Pursuing Diana Site <b>Recommend:</b> Proceed to RFP
Ahlin (Flea Market)	140 E. Main Street 130 E. Main Street	Transist oriented, market-rate housing project	<b>Status:</b> Considering development options <b>Recommend:</b> Proceed to RFP
Glenrock Builders	91 E. Fourth Street (former Sunsweet site)	Offsite improvements surrounding the site on 3rd, 4th, and Depot Streets, above flood elevations, and public art in preparation for future commercial-residential mixed-use project	<b>Status:</b> Requests proceeding to RFP. Needs quick turnaround so he can apply for Measure P in October. <b>Recommend:</b> Proceed to RFP
LeBoulanger (Brunello)	Two undisclosed downtown sites	Bakery/café	<b>Status:</b> Pursuing various sites <b>Recommend:</b> Proceed to RFP
Kemp	Unspecified	Looking to purchase a site for a restaurant	<b>Status:</b> Still seeking site. <b>Recommend:</b> Proceed to RFP
Page Holdings, LLC	Two vacant Hencken Enterprises lots on Monterey Rd : 1) south of Wells Fargo, & 2) south of the liquor store, between 3rd & 4th Sts	Construct 2-story building (approximately 7,000-10,000 sf) for retail or entertainment uses on the first floor and office space on the second floor	<b>Status:</b> Still seeking site. <b>Recommend:</b> Proceed to RFP

Jones/Meister	Unspecified	Acquire and rehabilitate or new construction of a 5,000-6,000 s.f. building for a bookstore with café, meeting room, and receiving/ storage area for "Booksmart"	<b>Status:</b> Still seeking site. <b>Recommend:</b> Proceed to RFP
---------------	-------------	--	--



## **CITY COUNCIL STAFF REPORT**

**Agenda Item # 26**

**Prepared/Approved  
By:**

**Council Services &  
Records Manager**

**Submitted By:**

**City Manager**

***MEETING DATE: February 18, 2004***

### **UPDATE ON MEDICAL SERVICES OBJECTIVES**

**RECOMMENDED ACTION: CONSIDER REPORT, WITH  
RECOMMENDATION, FROM THE MORGAN HILL  
COMMUNITY HEALTH FOUNDATION AND DePAUL HEALTH CENTER**

#### **EXECUTIVE SUMMARY:**

Due to a scheduling conflict, the DePaul Health Center Management team were unable to attend the Council's January 21, 2004 meeting to report back to the Council their proposed short, medium and long term objectives for the accomplishment of medical services. The Council received a report from Joseph Mueller with the Morgan Hill Community Health Foundation who addressed the short term actions and medical objectives being pursued. He indicated that the DePaul Health Center Management team would be in attendance at the Council's February 18, 2004 meeting to further address the objectives for medical services. Staff has attached the report and recommendations for Healthcare Services Objectives in Morgan Hill for Council reference.

**FISCAL IMPACT:** The time necessary to prepare this report is incorporated in the Council Services and Records Management budget. No fiscal impacts associated with this item.



## **CITY COUNCIL STAFF REPORT**

**MEETING DATE:** February 18, 2004

### **REQUEST FOR COUNCIL CO-SPONSORSHIP OF SILICON VALLEY ONE BOOK, ONE COMMUNITY READS**

### **RECOMMENDED ACTION: CONSIDER REQUEST FROM SILICON VALLEY READS FOR CITY CO-SPONSORSHIP OF SILICON VALLEY ONE BOOK, ONE COMMUNITY READS' UPCOMING MARCH 7, 2004 EVENT**

Agenda Item # 27

Prepared/Approved  
By:

Council Services &  
Records Manager

Submitted By:

City Manager

#### **EXECUTIVE SUMMARY:**

Last year, the City Council agreed to co-sponsor Silicon Valley One Book, One Community Reads in association with the Santa Clara County Office of Education, BookSmart Bookstore, Morgan Hill Library, Morgan Hill Times, Friends of the Library, Morgan Hill Branch of the American Association of University Women and the Morgan Hill Unified School District, a "Bilingual Presentation and Book Signing" event held on Saturday, February 22, 2003 from 10:00 a.m. to 12:00 noon at the Community and Cultural Center, El Toro Room, as part of Silicon Valley Reads – One Book One Community Reads. Award winning author Francisco Jimenez was the featured author at the event for his book entitled *Breaking Through* a Memoir of Growing up in a California Migrant Worker Family. The staff report and minutes for the February 5, 2003 request is attached for Council reference.

Cinda Meister, BookSmart Bookstore, is requesting that the Council co-sponsor, along with the Friends of the Morgan Hill Library, Silicon Valley Reads and BookSmart Bookstore, a similar event to be held on Sunday, March 7, 2004 from 2:30-4:30 p.m. in the El Toro Room of the Community & Cultural Center. This year's book to be featured is written by Ray Bradbury, *Fahrenheit 451*.

The current rate for use of the El Toro Room (prime time) is \$400 for 4 hours of rental use (4 hour minimum on Friday nights, Saturdays and Sundays) at the Morgan Hill "Business Rate." There is a \$25 processing fee that is charged at time of rental reservation for a total of \$425. There is also a \$350 security deposit that is typically charged. However, as last year's event resulted in no damage, this fee is not proposed to be collected. Non-profit groups are charged at a \$40/hour rate (4 hour minimum rate) + \$25 processing fee for a total of \$185.

Staff is requesting Council direction. The Council is being asked to consider and provide direction with the following:

- Deny request to co-sponsor event;
- Agree to co-sponsor this year's book signing event in name only;
- Agree to monetarily co-sponsor this year's book signing event;
- Agree to co-sponsor the book signing event in name only for any future annual events; or
- Agree to monetarily co-sponsor this year's and any future events, if this is to be an annual event

**FISCAL IMPACT:** Co-sponsoring this event would result in the loss of revenue of \$185-425 in cost recovery for the use of the Community and Cultural Center facility. Last year, the Friends of the Library contributed \$40 toward the event. There is no indication of fees to be paid by any of the identified co-sponsors for this year's event. Should the City Council agree to co-sponsor the event, monetarily, this fee will be charged to the Council's Community Promotion, Account No. 010-42248-1100, reducing funding left to co-sponsor the annual Fourth of July activities by \$185.



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item #28**

**Prepared By/  
Submitted By:**

---

**City Manager**

### **CITY COUNCIL POLICIES AND GOALS FOR 2004**

#### **RECOMMENDED ACTION(S):**

1. Consider the attached draft statement of City Council Policies and Goals for 2004,
2. Revise as appropriate, and
3. Adopt the City Council Policies and Goals for 2004.

#### **EXECUTIVE SUMMARY:**

On January 16 and 17, 2004, the Council conducted its annual goal setting retreat and tentatively arrived at the policies and goals outlined in the attachment.

#### **FISCAL IMPACT:**

Implementation of goals and policies will be reflected in the City Manager's Recommended Budget for FY 05.

# D R A F T

## City of Morgan Hill

### City Council Policies and Goals for 2004

*Following its annual goal setting retreat, and a Council meeting on February 18, 2004, the City Council has adopted the following policies and goals to address priority issues in calendar year 2004.*

#### **City Budget**

Policy: The Council adopts the multi-year budget strategy outlined in the City Manager's "Guide to Developing a Sustainable Budget Strategy" (dated 1/9/04).

Policy: The Council adopts the attached Budget Principles.

Policy: To implement the Budget Strategy, General Fund Reserves may be used to support General Fund expenditures as long as:

1. Revenues and expenditures balance by June 30, 2008, and
2. Reserve levels are not depleted below 25% of revenues in any year with the following exception:
  - a. reserves below 25% may be invested in long term cost savings projects or high return economic development projects, and
  - b. reserves shall never be depleted below 10% of revenues which shall be maintained as an ongoing reserve for emergencies.

**Goal:** Prior to Council consideration of the City Manager's Recommended Budget in May 2004, the Finance and Audit Committee shall review existing Business Assistance Guidelines and recommend an appropriate "rate of return" on economic development investments that might be made from General Fund reserves. The Committee shall consult with the Chamber of Commerce and the Downtown Association.

**Goal:** Prior to Council consideration of the City Manager's Recommended Budget in May 2004, the Finance and Audit Committee shall prepare and recommend a plan for Council to consider new revenue options, including a plan on how best to obtain community input.

**Goal:** By February 18, 2004, the Legislative Committee shall evaluate State propositions on the March ballot for their impact on the General Fund and recommend a City position.

## **Economic Development**

Policy: Economic Development partnerships and investments will be evaluated for their impact on the General Fund. In evaluating the “return on investment,” the Council will consider both direct and indirect impacts, with consideration of different investment criteria for downtown economic development projects.

## **Medical Services**

Policy: The City Council will pursue the adopted Medical Services Objectives through the work of the Morgan Hill Community Foundation to which \$500,000 has been allocated.

**Goal:** By February 18, 2004, the City Council will review proposals by the Morgan Hill Community Health Foundation and DePaul Health Center and revise or re-adopt the City’s Medical Services Objectives.

## **Library**

**Goal:** By June 2004, the City Council will obtain community input and adopt a feasible strategy for a new or expanded library, including a site and a financing strategy.

## **Fire Services**

Policy: The City Council supports a coordinated and integrated system of fire and emergency medical services for South County.

**Goal:** By March 3, 2004, the City Council will determine whether to extend the Fire Services Contract with County Fire or pursue other options.

## **Flood Control**

Policy: The City Council will match up to \$250,000 of funds allocated by the Santa Clara Valley Water District to be used to keep the PL 566 project on schedule pending federal appropriation for environmental and engineering work.

**Goal:** By December 2004, obtain full federal funding for environmental, engineering and right of way acquisition for PL 566.



## **Urban Limit Line/Greenbelt Study**

**Goal:** By December 2004, review the recommendations of the Urban Limit Line/Greenbelt Study and take advantage of opportunities to acquire or control critical open space.

## **Governance**

**Goal:** By December 2004, City Manager is to evaluate the existing system of council committees and subcommittees, as well as its citizen commissions, committees and task forces and prepare recommendations for reducing costs, enhancing communication and improving decision-making processes.

**CITY OF MORGAN HILL**  
**PRINCIPLES TO GUIDE THE SUSTAINABLE BUDGET STRATEGY**

1. Critical services should be maintained to the greatest extent possible.
2. Resources should be allocated to the highest priority services.
3. No City services or functions should be exempt from evaluation.
4. “Across the Board” approaches shall be avoided because they are not aligned with the Council’s and community’s priorities.
5. Reductions in service should position the City to take advantage of economic recovery.
6. Budget cuts should be ongoing and not simply “one time only.”
7. Council should commit to support employees during the transition, and assist those who may be adversely impacted.
8. Employees and their recognized bargaining units should be actively involved in developing options and implementing the transition.
9. The City should continue to invest in building organizational capacity by supporting training and employee development.
10. Community wide tax resources should be allocated first to support community wide services.
11. Special services designed for only a few should be paid for by user charges and fees.
12. Administrative and operational efficiencies should be maximized before pursuing new tax revenue or cutting services to the public.
13. Reserves and one time revenues may be invested in projects that would increase City general fund revenue, or in capital outlay items that could reduce long range operating costs.
14. New services should not be added nor existing services expanded, unless they are highly valued by the community and there is a willingness to pay for them.
15. There should be regular monitoring of financial performance and opportunities to make mid-course corrections as warranted.
16. City policies that may inhibit economic development, especially new retail development, should be reviewed regularly and modified.

Adopted February 18, 2004



## ***CITY COUNCIL STAFF REPORT***

***MEETING DATE: February 18, 2004***

**Agenda Item # 29**

**Prepared By:**

**Assistant to the City  
Manager**

**Submitted By:**

**City Manager**

### **CITY POSITION ON PROPOSITIONS 56, 57, AND 58**

**RECOMMENDED ACTION(S):** Council Discretion

**EXECUTIVE SUMMARY:** The City's Legislative Subcommittee considered whether or not the City should take an official position on Propositions 56, 57, and 58 at its January 29<sup>th</sup> meeting. While these propositions are important to the State as a whole, the Subcommittee did not believe that it was appropriate to take a position on them at this time. Propositions 56, 57, and 58 have no discernable direct impact on the City and the City has historically not taken positions on items that do not directly impact the City. Moreover, the potential secondary impacts associated with the passage or failure of these propositions are very difficult to determine and it is impossible to know if their passage would bring forth a positive result for the City.

Subsequent to the Subcommittee's report at the February 4<sup>th</sup> Council Meeting, both Mayor Kennedy and Mayor Pro Tem Sellers asked staff to place this matter on the agenda for a full discussion. Key pages from the State's Voter Information Guides on these propositions is attached.

Staff recommends that the Council determine whether or not the City should take a position on these propositions and, if so, direct staff to prepare a letter for the Mayor's signature stating the City's position.

**FISCAL IMPACT:** No budget adjustment is required at this time.



**REDEVELOPMENT AGENCY/CITY  
COUNCIL STAFF REPORT**

***MEETING DATE: February 18, 2004***

**REQUEST TO CONSIDER THE REDEVELOPMENT AGENCY  
FEBRUARY 25, 2004 MEETING**

**Agenda Item # 30**

**Prepared/Approved  
By:**

**Executive Secretary/  
Council Services &  
Records Manager**

**Submitted By:**

**Executive Director/  
City Manager**

**RECOMMENDED ACTION: CONSIDER MAYOR'S REQUEST TO CANCEL THE  
FEBRUARY 25, 2004 REDEVELOPMENT AGENCY MEETING**

**EXECUTIVE SUMMARY:**

Chairman/Mayor Kennedy has requested that discussion of holding the Redevelopment Agency/Council meeting be scheduled for City Council/Redevelopment Agency consideration. This item is included as part of the Council/Redevelopment Agency's February 18 meeting for discussion. Staff has reviewed the upcoming Council tentative agenda and has found that the February 25 meeting is a relatively light agenda, at this time.

**FISCAL IMPACT:** The time necessary to prepare this report is incorporated in the Council Services and Records Management budget. No fiscal impacts associated with this item.